BOS EXECUTIVE SESSION MINUTES
Jan. 8, 1989 - Dec. 16, 1996

Requested transcript:

NEW BUSINESS - DJR - DJR stated that at the last meeting Nine-X came in for permission to put up a cable for Digital. He was concerned because RAB spoke on the issue and may have marred the hearing. He believes it is a conflict of interest and asked RAB to ask Town Counsel if this is a conflict of interest, also, RAB's efforts with getting the new computers for the Town and the subsequent $14,000 per year maintenance contract.

MINUTES EXECUTIVE SESSION OF THE BOARD OF SELECTMEN
SEPTEMBER 25, 1989

MEMBERS PRESENT: Mr. Johnson, Ms. Towle, Mr. Ready, Mr. Emerson and Mr. Blomgren. Mr. Lynch, Town Manager, was absent.

FIREFIGHTERS CONTRACT: Ms. Towle updated the Board on the latest offer to the Firefighters of a 4-year contract of 3-2, 2-3, 4-4 with a re-opener on health insurance and clothing allowance. She stated that the Union has not yet responded. After discussion of the breakdown of the contract numbers, Mr. Johnson felt that this had to get to the upcoming Special Town Meeting with the teachers contract.

FREDERICK DILLON: Mr. Blomgren made a motion to direct all inquires regarding Mr. Dillon to counsel, 2nd Mr. Ready, unanimous. Roll-Call Vote: Ms. Towle-Aye; Mr. Ready-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Mr. Johnson-Aye.

FIRE UNIFORM GRIEVANCE: Mr. Blomgren stated that the Board and Fire Chief do not look good in the press regarding this issue. Mr. Blomgren felt that Chief Hughes should draw a dress code. Mr. Johnson felt that the majority of residents agreed with the Board. Mr. Emerson felt that there is a code of conduct while on duty and they are making a mockery of the system. Mr. Emerson does not want the BOS to cave in, however, the rules the Chief wants to enforce should be in black and white. Mr. Lynch to speak to the Chief regarding a dress code.

Mr. Blomgren mentioned the annoyance letter that had been published the Chelmsford Independent regrading the Fire Chief, Highway Superintendent and Mr. Lynch. Mr. Blomgren felt that the Independent should not have made any reference to this letter.

MOTION TO ADJOURN TO REGULAR SESSION: Ms. Towle made a motion to adjourn to Regular Session, 2nd Mr. Ready, unanimous. Roll-call Vote: Ms. Towle-Aye; Mr. Ready-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Mr. Johnson-Aye.

Submitted for the Board of Selectmen

Beth A. Kinney

Beth A. Kinney

Executive Session of the Board of Selectmen held Thursday, October 12, 1989 at McCarthy School at 7:25 pm. Members present were: Mr. Johnson, Miss Towle, Mr. Ready, Mr. Emerson and Mr. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Lynch said that the Board hasn't voted on the Fire Contract yet. Motion by Miss Towle, seconded by Mr. Ready, to accept the contract at a cost of $250,000. Roll Call vote was as follows: Miss Towle-Aye; Mr. Ready-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Mr. Johnson-Aye.

Mr. Lynch told the Board that the Fire Department Union has voted No Confidence in Chief Hughes and Deputy Chief Galloway because they "are not nice and treat them rudely". Mr. Lynch has set up a meeting with the Chief and Deputy and the Union Executive Board.

Mr. Johnson said that with the budget constraints he is going to pay for his own hotel room at the MMA convention and urged other members to do so also.

Mr. Lynch passed out the motions, a Town Manager salary survey, and a description of the Town Manager position.

At 7:30 pm motion by Miss Towle, seconded by Mr. Ready, to adjourn to attend the Special Town Meeting. Roll Call vote was as follows: Miss Towle-Aye; Mr. Ready-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Mr. Johnson-Aye.

For the Board of Selectmen, by

Judith E. Carter

Mr. Blomgren asked if all Board members and Mr. Lynch could refer any questions or comments to Atty. Harrington. Mr. Lynch stated that he can't not comment and not defend himself, particularly in regional papers.
Mr. Ready commented that the Board had voted that the Town Manager could use independent counsel in some cases and this should be decided on a case by case basis. Mr. Harrington said that in an official capacity you are all entitled to representation and if there is a conflict between the Board and the Town Manager he cannot represent both, and he should not be in this mattter.

Mr. Ready said that the Town Manager is entitled to the same representation, and Mr. Johnson moved to provide compensation for legal fees incurred by the Town Manager as they refer to his position as Town Manager, representing the Town, bills to be reviewed by the Chairman of the Board and with a limit of $2500. Motion was seconded by Mr. Logan and Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

At 7:45 p.m. motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn and return to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

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Executive Session of the Board of Selectmen held Monday, September 23, 1991 at 7:10 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Ready announced that this week the sexual harassment suit filed by Beth Kinney against Bernard Lynch came out in the papers. Mr. Lynch said that he has not yet been served, that it was only through The Lowell Sun that he learned a suit has been filed. Mr. Johnson commented that the suit is a watered down version of the Affidavit, that there are only 20 counts, not 35.

The Board is calling an Executive Session for September 30 at 7:00 pm and hope to have attorneys James Harrington and Philip Nyman present to report on the investigation the Board is conducting into the sexual harassment charge. The Board will also have a Work Session to discuss the Town Accountant and licensing procedures.

At 7:20 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, September 30, 1991 at 7:00 p.m. to discuss pending litigation. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Judith Carter, Adm. Asst., Town Counsel James Harrington and Special Counsel Philip Nyman were also present.

Attorney Nyman said he had interviewed several present employees and present and former Board members in the sexual harassment investigation on charges brought by Beth Kinney against Town Manager Bernard Lynch. He asked Sel. DeFreitas if he wished to talk to him on the subject and Mr. DeFreitas said No, since he was not here during Ms. Kinney's employment
Attorney Neyman said he did not show Ms. Kinney's Affidavit to those interviewed and asked them both general and specific questions - what had they heard about the situation, and sexual harassment in general. Everything indicates that people interviewed were very positive with respect to the Town Manager and negative with respect to Beth Kinney and the sexual harassment charge. No one indicated any concern regarding harassment and people have discussed the indiscretion of the Town Manager but felt it was a personal matter and didn't affect his ability to govern the Town. At this stage he doesn't find any basis at all for Beth Kinney's allegations and no one has indicated anything to cause alarm.
He hasn't spoken to the Town Manager and his counsel or Beth Kinney and her counsel. The next step would be to ask Beth Kinney to come to his office and give hhm the names of people that he may have overlooked. He wants to conduct this meeting with a stenographer and Ms. Kinney's counsel present. This way they can never allege that the investigation was unfair. If Ms. Kinney talks to him and if her supposed 11 -12 witnesses show credibility then he will see if she and Mr. Lynch want to confront each other. The Board has no power to give him subpoena powers.

Mr. Logan arrived at 7:12 p.m. Atty. Nyman offered him the same opportunity to speak with him as Mr. DeFreitas, and told Mr. Logan that he has found no basis for the allegations. He said he could ask him as a resident if he has heard anything about any indiscretions, etc. or about Mr. Lynch or Ms. Kinney. He then told Mr. Logan what he's planning to do.

Mr. Ready summed up what Attorney Nyman wants to do next and asked about a time frame and he said 2 - 3 weeks. Mr. Blomgren asked if he will prepare a list of those he has interviewed for Mr. Ready and Ms. Kinney and he said No, definitely not Ms. Kinney. Atty. Nyman said if people do come, if she gives him the names of more people who will testify, he will take the testimony of any who want to come. Mr. Johnson commented that if we ask them to testify they can't say we haven't been fair.

Mr. Nyman said that as a result of a Supreme Court case we need to ask both sides to testify and confront each other, since this is a civil case, not criminal, a broader hearing is more fair. He continued that all interviewed have said that Beth Kinney never indicated to any of them any problems with Mr. Lynch. There are allegations that Ms. Kinney covered up for Mr. Lynch but Atty. Nyman was told not to use the Affidavit with interviewees. Mr. DeFreitas commented that he is not concerned about the indiscretions but is more concerned about the coverup. Mr. Nyman said he thinks he ought to talk to the TV reporter involved and Mr. Johnson said that he feels his potential questioning is well within reason, of Beth Kinney and Bernard Lynch but the others indicated affect Mr. Lynch's personal life. Mr. Nyman said he is conducting the investigation to see if the Town of Chelmsford tolerates sexual harassment. If any Civil Rights action is commenced against the Town the Town can only be liable if this practice is allowed and tolerated. If the Board finds the allegations true they must set a policy.

Mr. Ready said the Board wants to give Atty. Nyman free rein to conduct the investigation for the Town, and thinks he needs to talk to the reporter named in the Affidavit. Mr. Johnson added that we are talking about the ruination of people's lives if he talks with the others named in the Affidavit. Mr. Ready said maybe we should have him talk to all reporters who covered Town Hall during that time, but Mr. Johnson stated that we have to proceed to protect the Town but we don't want to call in others.

Atty. Nyman told the Board he doesn't construe what they're saying as tying his hands - when he talks to those people he doesn't want to question their relations with Mr. Lynch. If Atty. Boumil is going to give us a list of people, and the names in the Affidavit aren't on it he will be surprised. Mr. Johnson feels that Ms. Kinney and Mr. Boumil won't talk to Attorney Nyman.

Mr. Blomgren said that we have to act in the interests of the Town and to protect the Town, and he should do anything he can to do so. Mr. Ready told Mr. Nyman that he has the unequivocal and carte blanche blessing of the Board to go forward with the investigation, that either the allegations are warranted or they are not. He asked if there is no substance to the allegations, what should the Board do. **Atty. Nyman said he will issue his report and the Board should vote to adopt and release the report** and state that the Board concludes that the Beth Kinney matter is at an end. His report does not impact the liability of the Town. If we find enough evidence the next step is for the Board to take whatever steps they are contractually able to do - suspend Mr. Lynch, with or without pay, which would be a very serious charge.

Mr. DeFreitas asked if the Board should adopt a formal anti-discrimination/sexual harassment policy, and Mr. Nyman said that Bernard Lynch is the chief enforcing officer of any such policy. If the Board adopts it now, it will put him in a bad light. Mr. Blomgren said he has drafted a policy but Attorney Nyman told him not to give it out, that other Board members have said No. It would make Mr. Lynch look guilty, and in the best interests of the Town any policy should come out with a report on policies 3 or 4 months after the investigation is over. Mr. Johnson said that in this section of the State very few Towns have such policies, only if they have gone through these charges. Mr. Nyman said he is not aware of any general law that says a community should have a policy. He wants to conduct a fair hearing and come out with a fair report and it's not fair to come out with a policy now - it could make the Town look more vulnerable.

Attorney Nyman then left the meeting. Town Manager Bernard Lynch joined the meeting.

Mr. Ready said that we have to discuss the Town Manager's legal reprsentation and how it is to be funded. Attorney Harrington said that under Chapter 258, Section 9, this is up to the Board to decide.
The Board felt that certain people become very vindictive and we shouldn't allow that to happen, that this issue emanated from Town Hall with his duties as Town Manager and we need to send a message to the Community.

Mr. Johnson stated that Mr. Lynch turned back his own check for $1,000.00 towards his 5% pay cut, and that we have the least shortfall of any community in the Merrimack Valley.

Atty. Harrington told the Board that the lawsuit was served against Mr. Lynch personally and that Atty. Boumil has to give the Town 6 months before suing the Town. He feels this suit is an attempt to get the matter into the courts before 6 months is up.

Motion by Mr. Johnson that the Town indemnify their employee the Town Manager for legal fees and court costs emanating from this lawsuit.

Mr. Blomgren said that the average person on the street has grave concerns about the Town paying the costs. Mr. Ready said if we vote this we should let the public know now, and why we're doing this. Mr. Harrington said that it a determination is made that it was not in the course of his duties as Town Manager, that is a different story and the Board doesn't have the statuory authority to defend him. Mr. Johnson feels that we need to send a strong message to the community that we will protect public officials, and Mr. Harrington warned that we must look beyond this case,

that other officials may be faced with civil rights suits. Mr. Blomgren commented that as public officials we are responsible for the assets of the Town, including money. **Mr. Johnson** said the amount of money is immaterial, it is the principle involved, and **we should state that until you are proven guilty the Town of Chelmsford will defend you.** Attorney Harrington told the Board that it is in the best interests of the Town to get the Town Manager a good defense, since Atty. Boumil has said he would sue each of us individually after a 6 months period.
Mr. Johnson amended his motion to have Town Counsel draw up the appropriate documentation to have the Town pay legal fees and court costs for the Town Manager arising from his defense for any actions in his position as Town Manager and to have the Chairman of the Board approve all vouchers. Motion seconded by Mr. Logan, unan.

Town Manager Lynch told the Board he has documents regarding the **Lowell Landfill** stating that the DPE has denied the City's application to extend the size of the landfill and will issue a cease and desist order within the month.

At 8:35 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to **adjourn to open session to discuss policy and procedures re licensing.** Roll Call Vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith K. Cantier

Executive Session of the Board of Selectmen held Monday, October 7, 1991 at 7:00 p.m. to discuss pending litigation. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren . Judith Carter, Adm. Asst. and Town Counsel James Harrington were also present.

Mr. Blomgren said that during the Executive Session last week he felt that Town Manager Lynch's presence dampened the discussion of his lawsuit. He felt there appeared to be a confrontation between himself and the manager. Atty. Harrington said that when the Board calls an Executive Session it is your session and you invite who you want. You don't have to have the Town Manager present. Mr. Defreitas suggested that when we discuss the"Bernie Lynch matter" that we don't invite him unless we are discussing him personally or discussing payment of fees, etc.

Mr. Blomgren said that re Atty. Neyman's fee, he thought last Spring that it was $125.00 per hour. Mr. Johnson said it was $150 but he said he would do the work for $125. Mr. Blomgren said he read $200 in the paper and Mr. Ready told him that his understanding is that the first time it was $125, and he said that the next time it would be his regular price. Mr. Harrington said he thought that Mr. Neyman's fee was $175, and he acted in the Board's behalf in hiring him to do the investigation. Mr. Blomgren asked for a specific rate schedule from Mr. Neyman and will be disturbed if it goes beyond $125 - $150 per hour. He added that Atty. Michael Collora's fee makes him sound like a high-priced Boston lawyer, and we need his fee schedule, also. He asked if he is the Town's attorney or Mr. Lynch's attorney, was he hired by the Town. Mr. Harrington said that yes, there was a specific vote to hire him then. Mr. Harrington will contact his office and say that we will reimburse him for his fees as a Town.

Attorney Harrington said that we received a **Notice of Claim letter** for the Town dated August 16, and recommends that we release it tonight. It was also filed with the Town Clerk. They are the same allegations as in the complaint. Under Chapter 258, he is recommending that we release the letter because: 1. action has been brought and a complaint filed; and 2. the Secretary of State's office has an investigator on the case, since the Lowell Sun and Boston Globe have claimed that Attorney Harrington has violated the Freedom of Information Act, and he is recommending release, and will rule on releasing the Affidavit next week. Motion by Mr. DeFreitas, seconded by Mr. Johnson, to release the letter of August 16th. Roll Call vote was as follows: Mr. Logan-Nay; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye. (4 -1)

On another matter Mr. Johnson said that the CHS ALumni Association is going to request a 1-day liquor license in Open Session, and if we disclose that we are members of the asociation is it all right for us to vote. Attorney Harrington said Yes and recommended that Mr. Logan must use his discretion and be conservative.

Mr. Harrington said that we have a claim brought against the Town and the Board in the Kinney matter. They can't bring suit for 6 months until we have done the investigation. The letter is a Notice of Intent. The suit was brought against Bernard Lynch without waiving the 6 month period and Atty. Harrington questions if this suit is premature and may try to have the case dismissed. He added that in his opinion we have been put on notice that a suit may be filed and that the suit filed against Mr. Lynch is in his position as Town Manager.
Mr. Ready asked Atty. Harrington for a statement to read at the meeting after this session and Mr. Harrington passed out copies to each member.

Mr. Harrington told the Board that $150 - $175 per hour is a typical fee for a private civil defense, and he has no recollection of ever not reimbursing any public official or employee for legal fees if they were in their official capacity as a Town employee. He also added that the insurance company has not refused to pay the defense costs, but asked the Board not to state this publicly. He said he is still trying to get an answer from the Jefferson Insurance Co. but they are still invetigating and will let him know Wednesday.

Mr. Blomgren said he does not feel good as a taxpayer paying the legal fees due to the nature of the charge but Mr. Johnson said it is the principal of the thing.
Mr. Logan asked what if Mr. Lynch is guilty and Mr. Ready said that by the outcome of our investigation if there is a problem we will take action against him. At that point he won't be Town Manager and we won't defend him. Mr. Johnson commented that counsel has interviewed a myriad of people and has found no instances of any sign of harassment.

Atty. Harrington said that Beth Kinney will meet with Atty. Nyman Thursday. Mr. Blomgren asked if we have other names to be interviewed do we go to him and Mr. Harrington told him that he will ask Atty. Boumil to supply him with a list of names to interview and Atty. Nyman will interview all names presented to him.

Mr. Ready said that the Board will review all legal bills in Executive Session prior to payment.

Motion by Mr. Logan, seconded by Mr. Johnson, to **appoint Michael Collora, Esq. as special counsel for the Town to represent the Town Manager.** Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgen-Aye; Mr. Ready-Aye.

At 7:45 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board by Selectmen, by

Judith E. Carter

Draft #2: Amended to delete names, as requested by BOS

Executive Session of the Board of Selectmen held Friday, November 8, 1991 at 7:30 a.m. at the law offices of Town Counsel James Harrington, 4 Courthouse Lane. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Judith Carter, Administrative Assistant, was also present, as were Attorneys Harrington and Philip Nyman, Special Counsel.

Attorney Nyman handed out copies of his report to Board members and then summarized his findings of his investigation into the sexual harassment charge brought against Town Manager Lynch by his former secretary Beth Kinney.
Mr. Nyman said he has interviewed over 20 people and chased down all names given to him. Three persons were interviewed by phone and one was not reached. He also has extensive interviews recorded by a stenographer with the parties involved - Beth Kinney and Bernard Lynch.
It is overwhelmingly evident that there is no liability on the part of the Town, that there is no policy on or atmosphere of sexual harassment and even Beth Kinney said that the Board would fire any person found harassing another employee.
He found the Town Hall atmosphere to be fine, that there was no harassment coming from the Police and Fire Departments, and gives a clean bill of health to the Town and its elected officials, namely the Board of Selectmen.
He added that he found Beth Kinney to be very honest with respect to the Town. Most of the focus was on the Town and the atmosphere, as it was with every person he spoke to. He had a young, female associate sit in on the Beth Kinney interview, and he said the attorneys in his office agree with him 100% when he told Attorney Boumil that the case is over as far as the Town is concerned.

Attorney Nyman pointed out that the Town and Bernard Lynch are two separate entities. The issue in Mr. Lynch's case is really Beth Kinney against Bernard Lynch, and the only corroborating witness is Beth's sister, who was interviewed by the female attorney. It appeared that she did not really know what was going on. Beth Kinney at one time said she was looking for the Town to fire Mr. Lynch, and not looking for money. Her attorney James Boumil said they have sought money damages.
He said that the stenographer did not give copies of the transcript to anyone, that it is his, although either party's lawyer could subpoena a copy. Beth Kinney and Bernard Lynch are the only ones on record.

Attorney Nyman feels if the case went to the jury that emotional distress and assault and battery charges would not be proved, that it is a weak, weak case, but he can't say there is no truth to it. He is not sure that Mr. Lynch's actions were a smart, mature thing for a Town Manager to do.

Attorney Nyman continued that all persons interviewed said that Bernard Lynch was fair to women, and always professional with them. More than one-half of the 20 persons interviewed were women. Attorney Boumil gave him a list of "background witnesses", but he felt it was basically a rehash of the Selectmen's campaign. Attorney Boumil asked him to contact Beth Kinney's sister. One person he interviewed was supposed to be a bombshell but proved not to be, and one person he contacted had no idea what was going on. In terms of the Town Hall situation there appeared to be no cover-up, nor any atmosphere of sexual harassment.

Bernard Lynch said he was working on a harassment policy with the Personnel Board but it is not really formulated yet. It is Attorney Nyman's recommendation that the Board of Selectmen put together a harassment policy with the Personnel Board, and should do it now.

Mr. Ready asked if this is releasable to the press - that the investigation has concluded, that we have a report saying basically that there is no evidence that there is any atmosphere of sexual harassment and the Board would not condone harassment. Mr. Nyman said he asked Mr. Lynch who harassed employees would complain to and he said the Town Manager, but never thought he would be named as an offender.

Mr. Ready asked what should the Board of Selectmen do now and Mr. Nyman said nothing, that Attorney Boumil has no evidence against the Town. The Board could file a claim against Beth Kinney for filing a frivolous suit, but only if they file a suit against the Town in February. He said that the Board should sit down with Mr. Lynch's attorney, Michael Collora, and tell him that we want a budget, not unlimited expenses. The Board asked what type of budget and Mr. Nyman said maybe $5,000 - with a top of $10,000 if the case goes to court.

Mr. Ready asked why not say that we want to budget $5,000 for the Town Manager at this time and say that at this point we are not budgeting for the Town's defense because the suit is frivolous but that we are prepared to go all out for the Town's defense.

Attorney Nyman suggested that the Board not release his report until the first of next week, and Mr. Ready said he will call a Press Conference for Tuesday at 1:00 p.m.

Motion by Mr. DeFreitas, seconded by Mr. Blomgren, that the Board hold a Press Conference next Tuesday and release this information and to follow Attorney Nyman's recommendation to start the process to establish a policy on sexual harassment. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Blomgren-Aye and Mr. Ready- Aye. Mr. Johnson had to leave the meeting at 8:00 am and did not vote.

Mr. Logan asked that the Chairman mention Attorney Nyman's comments regarding the Town Manager's relationshp with Beth Kinney. Attorney Nyman read the last page of his report. Attorney Nyman's recommendations will be placed on the agenda for the November 18th meeting.

Mr. Ready said it is time to close out the sexual harassment charges and start working on policy. The Board should sit down with Mr. Lynch to discuss his performance - and ask did he require Ms. Kinney to cover up for him, and to do certain things. Attorney Nyman said he did not ask him these questions. Attorney Nyman concluded by saying that that he had no contact with either side as to what was going to happen, that he wants to protect his professionalism.

A copy of the report will go to Mr. Lynch today.

At 8:45 am motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith A. Cook

Executive Session of the Board of Selectmen held Monday, November 18, 1991 at 7:20 p.m. to discuss litigation. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas and Mr. Johnson. Mr. Blomgren was out of Town on business. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present, as were Chairman Bob Kydd and Dan Burke from the Board of Appeals.

Mr. Ready said that Mr. Burke had called from the Board of Appeals saying that he was upset that the Board of Selectmen had voted a one-day liquor license to the Armenian Church since the Board of Appeals is in litigation with them. He said that the BOS did not know this. Mr. Burke said that he saw an ad for the CHS Alumni Dance, that he lives only 1200 - 1500 feet from the property line and was never notified.

On August 15th the Board of Appeals held a Public Hearing for SS Vartanantz. They were asking for a Special Permit to hold functions, etc. as a weekly event on their property. The property was built as a private day school orginally, and the Armenian Church took it over about 15 years ago. The church has not been good neighbors and make a lot of noise occasionally. They have reconstructed a portion of their building into a large gathering/banquet hall. The Building Inspector told them it was necessary to go to the Board of Appeals, who denied the Special Permit on a 4 - 1 vote. The Board decided that the type of activities the church has had have been acceptable but when they asked for a banquet hall to be rented out this is why they denied the permit.
Mr. Johnson commented that when George Simonian appeared before the BOS he made it sound like a regular one-day license like we grant to St. Mary's or St. John's churches, not a banquet hall.
Mr. Kydd said that the Board of Appeals went through the proper hearings, they turned them down and now they are coming to the BOS for a favor.
Mr. Ready said that at one point St. Vartanantz was only allowed 5 licenses per year, and now they only ask for one or two.
Mr. DeFreitas said he thought the license was granted to the Alumni Association, not the church.
Mr. Johnson stated that we do have legitimate function halls in Town, and thought the churches were only granted licenses for functions for their members.

Attorney Harrington said that we are dealing with the interpretation of Chapter 40A, Section C. The Board has been issuing a limited number of one-day licenses to these organizations. St. Vartanantz came to the Board of Appeals for a permit to hold functions on a limited basis. The statute says you have limited powers.

Mr. Johnson said he wants to start a policy that the Board of Selectmen would issue a permit only for non-profit groups and charities holding functions for non-profit purposes.

Mr. Logan moved to adjourn and left the room at 7:35 p.m.

Mr. Kydd said the Town has spent a lot of money in litigation but Attorney Harrington said we can't carte blanche say we won't deal with a group if they are in litigation.
Mr. Johnson said that we could have turned down their request for a license because another association was to use the church facility. Mr. Ready said we need an understanding of what our limitations are, and Mr. Johnson asked Attorney Harrington to supply the Board with a list of pending litigation in the community.
Mr. Ready asked to have Mr. Harrington look over the agenda every week and let us know if there is any litigation pending on any subjects being discussed.
Mr. Johnson said that based on the information we now have he never would have voted to grant the license.
Mr. Harrington said that there was an activitiy they wanted to have in there in violation of the zoning by-law and they went to the Board of Appeals for a carte blanche permit.

At 7:45 p.m. Mr. Logan rejoined the meeting.

Mr. Ready said he had met with Atty. Harrington and Mr. Lynch and his attorney Michael Collura to discuss fees for defending Mr. Lynch in the sexual harassment charge brought against him by his former secretary Beth Kinney. Atty. Collura is charging $3,000 up to the decision to dismiss, from $10,000 to $16,000 for the discovery process and $5,000 for a trial.
Mr. Harrington said that this is a little more than Atty. Nyman had indicated, but at their meeting Atty. Collura said that he is afraid that Attorney Boumil will take many depositions and he will have to attend them all. Atty. Harrington said he thinks we should extend full cooperation to Atty. Collura but not give him a blank check.
Mr. Ready said he doesn't find these numbers out of line and Atty. Harrington pointed out that Atty. Collura's rate is $225/hour, and he is charging the Town less.

Motion by Mr. Johnson, seconded by Mr. Logan to go along with Mr. Collura's parameters and reiterate to him that this is not an open checkbook, and to continue to follow the recommendations of Attorneys Philip Nymnan and James Harrington. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Ready-Aye.

At 7:50 p.m. motion by Mr. Logan, seconded by Mr. DeFreitas, to go out of Executive Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, December 16, 1991 at 7:05 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Harrington said that re the Freedom of Information Request received from several newspapers, he has reached an agreement with the Secretary of State's office re the Affidavit given by Beth Kinney in her sexual harassment claim against Bernard Lynch. We can fulfill our obligation by releasing excerpts, and they will close their file.
Motion by Mr. DeFreitas, seconded by Mr. Johnson, to authorize Mr. Harrington to release the excerpts showing that Beth Kinney was employed during the time in question upon receipt of a letter from the Secretary of State stating that their file is closed.
Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.
Mr. Harrington stated that we were fortunate in dealing with them that this is all we have to release.

On the insurance issue, Mr. Harrington handed out a letter and gave the background on the matter. On September 3, 1991 we were denied coverage by National Casualty because we had other insurance, and in Nov., 1991 Monticello Insurance also refused coverage. Mr. Harrington submitted their letter to National Casualty stating that they should cover us, and their claims adjuster said that they will provide coverage for both Bernard Lynch and the Town, both indemnify and pay all legal bills. There will be a limited reservation of rights, ex. Assault and Battery.
There is a conflict of interest with counsel representing both Bernard Lynch and the Town and the insurance company is concened.

Attorney Rick Brody will represent the Town of Chelmsford and Mr. Harrington advises keeping Attorney Collora until we know who the insurance counsel is and also during the transition period with the new counsel. He may be asked to stay on by the insurance company.

Mr. Blomgren asked about the expenditures to date and was told that Atty. Nyman's fees are app. $7500, which may not be covered, and Atty. Collora's app. $4500.

Mr. Harrington said that the Town's deductible is $5000 and he will ask to deduct these expenses. This is a major win for the Town, having the insurance company pick up the legal fees. Everything from Atty. Boumil from now on will have to go throu the insurance company. He said he wants to be sure we get a letter from the insurer confirming coverage. He told the Bo not to make an announcement at this point, but we should be by the next meeting.

On the subject of North Chelmsford Auto Parts, Mr. Ready stated that the Conservation Commission has a problem . Mr. Harrington said that North Chelmsford Auto came in with their violation a year ago and the Conservation Commission engineer has been working with them but there seems to be a lack of communication. Mr. Harringon said he had sent the Board a letter dated October 23rd, and added that Attorney James Geary had come to the Conservation Commission's last meeting and they were disappointed with the lack of cooperation and the submittals. Mr. Geary said he will submit plans by the Dec. 18th meeting of the Commission. Atty. Harrrington said the Board can continue tonight's hearing into January.

The Board then discussed the Grove Street extension matter. Mr. Harrington said he represents Joseph Caires, who has a problem where Grove Street extends over his driveway, and he may have a conflict reprsenting the Town also. Mr. Caires' relative Charles Ferreira says it's a deeded right of way, has fired his atttorney James Geary and is now calling BOS members. Mr. Lynch said the matter is now in Jim Pearson's hands.

Motion by Mr. Blomgren, seconded by Mr. DeFreitas, that in the event that the Town is presented with an issue that requires defense that we authorize Mr. Lynch to chose a Special Town Counsel. Roll Call vote was as follows: Mr.Logan-abstain; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

Mr. Blomgren asked how the Board is going to handle voting on license renewals when taxes are in arrears and Mr. Ready said we will vote all those at the next meeting.

At 7:25 pm motion by Mr. Logan, seconded by Mr. DeFreitas, unan. to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Costa

Executive Session of the Board of Selectmen held Monday, December 16, 1991 at 7:25 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Bernard Lynch, Town Manager and Judith Carter, Adm. Asst. were also present.

Mr. Logan questioned the Executive Session minutes of November 18, 1991, and moved to amend by adding "Mr. Logan requested adjournment and left the room at 7:35 pm". Motion was seconded by Mr. DeFreitas. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Ready-Aye. Mr. Blomgren abstained since he was not present at the meeting.

Mr. Ready said he is requesting to remove names of all parties referred to from the minutes of the Executive Session of November 8, 1991 except attorneys, Mr. Lynch and Mr. and Mrs. Kinney. Mr. Blomgren asked the Adm. Asst. to review this motion with Town Counsel, and Mr. Ready asked to have Town Counsel review all the minutes of the Kinney case before they are submitted for approval.

Motion by Mr. Johnson, seconded by Mr. Logan, to remove the names from the Nov. 8 minutes subject to review by Town Counsel and not vote on them tonight. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

At 7:30 p.m. motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, January 27, 1992 at 6:30 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Ready said the **purpose of the meeting is to discuss the financial well being of the Town.** He said that he and Mr. Lynch had met with Town Accountant Bernard Meyler and Auditor Bob Brown this afternoon to discuss the problems in the Accounting Department.
Mr. Lynch said that the Town is going out to bond in February and must have the FY91 books closed out and a balance sheet to do this. At a meeting in November the big hurdle was getting a re-cap sheet ready to go to the State. He added that we have been much too long in closing out the books, and Mr. Blomgren reminded the Board that Mr. Meyler had told them that this would be done by October.
Mr. Lynch said that he called Bob Brown of Barrett and Brown last week asking him how long it would take to close out the books. He came today and we now have Free Cash identified ($202,000) and a draft Trial Balance sheet. Mr. Ready said he has been promised that the first three items will be done this week.
Mr. Lynch stated that Schedule A won't be done until March, and this schedule has information re receipts and expenditures in several classifications. He would like the auditors to get that done, although Bob Brown and Bernie Meyler are not sure when it will be done since Mr. Brown is not familiar with our software.
Mr. DeFreitas said to appoint someone who can get the job done, and put Bob Brown in charge and Mr. Lynch said if we brought in someone we could have it done by the end of February.
Mr. Ready told the Board that they are converting over 100 accounts to a new reconciliation and that 6 are most important but it is already too late for this year.
All agreed that to get the FY91 books closed is the most important task.
Motion by Mr. DeFreitas, seconded by Mr. Logan, to authorize Mr. Lynch to bring in whatever resources we need to get Schedule A done by the end of February and authorize one person to be in charge of that project as team leader and to go to the Finance Committee for a transfer not to exceed $10,000. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgen-Aye; Mr. Ready-Aye.

Mr. Ready said that there are other problems in the department, namely manpower. Midge McCormack is retiring but they are not sure when. Mr. Meyler has indicated that he has a a problem getting people to change their old ways of doing things, and Mr. Ready has suggested that he rotate personnel on tasks, so that eventually everyone will know the new way of doing each job. We

will get some more help into the Treasurer's office so Carol Lambert can help and we need to get data from the School Dept. Mr. Ready said that any requests for information should come to the Board's Adminstrative Assistant and the Accounting Office should have a "locked door" policy so the staff will not be constantly interrupted

At 7:05 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, January 27, 1992 at 7:25 p.m. to discuss pending litigation. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Harrington told the Board that re the insurance issue with the Beth Kinney matter, at the last meeting we were not sure who would be respresenting who. It now seems that he will be representing the Town and Attorney Michael Collora will represent Mr. Lynch. He charges $150.00 per hour and the insurance will pay $110.00 an hour, with the Town paying the other $40.00. He will charge the $150.00 only for himself, with the other attorneys in his firm charging only $110.00. Attorney Harrington said that the insurance company will give us credit us for the money we have already paid to Atty. Collora. He added that this gives us continuity of counsel, that Atty. Collora is very competent, Mr. Lynch feels comfortable with him and this is the most economical way.

Mr. Johnson stated that this is definitely a win for the Town and thanked Mr. Harrington for his hard work and perseverance on behalf of the Town.
Motion by Mr. Johnson, seconded by Mr. DeFreitas, to accept the recommendations of Town Counsel in this matter. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye and Mr. Ready-Aye.

Mr. Harrington said he has directed Attorney Boumil to send any further communications to the insurance company. Disusssion took place as to when and how to make the insurance coverage public. Mr. Harrington will draft a statement for Mr. Ready if the question comes up. The matter will be addresed at the next meeting and he will make an announement then.

At 7:35 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, February 10, 1992 at 9:25 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Accountant Bernard Meyler were also present.

Mr. Ready said the purpose of the meeting is to talk about where we stand on closing the Town's books for FY91. Mr. Meyler told the Board he feels like he has to protect himself, that he has written a lengthy memo to the Board. He said he hasn't closed the books, that he has gone through the steps one by one and has been talking with the Auditors, but he hasn't done this job for ten years. The Auditors started on February 6 and are here for 3 weeks. They are closing the books with him and he can then prepare a Schedule A. Mr. Lynch said the Auditors have taken charge at no extra cost to the Town and Mr. Meyler said he is learning a lot working with them. Mr. DeFreitas said he wants one person taking charge to get the job done.
Board members all said they care about getting the books closed, that we can't run the Town without this being done. Mr. Meyler said he kept running into brick walls but now that he is working with the auditors the process is well underway.
Mr. Johnson asked what does he want from the Board and Mr. Meyler said everything should be done within three weeks, by the end of February. Mr. DeFreitas said he wants to see us get monthly statements for each department head. Mr. Meyler said they are up to date for the end of 1991 and can provide these statements for 1992.
Mr. Johnson again said that by the end of February we want everything current - that all his other projects come second.
Mr. Ready told him that we will help by having all requests for information funneled through the BOS office, to keep the public away from his office so they can concentrate on closing the books, and Mr. Lynch said he feels we should have all materials for the Accounting Office dropped off in the Town Manager's Office.
Mr. Logan said he has talked with FinCom Chairman Dwight Hayward and he is concerned about the lack of information that other departments have received from the Town Accountant. He added that the memo sent to Mr. Meyler is to help him and his staff.
Mr. Ready said he felt Mr. Meyler should talk to the BOS about implementing all the ideas in the memo and that the idea is basically to funnel outside information through the BOS office.
Mr. Blomgren discussed the memo and goals that he had put together for the Town Accountant position. He had brought this up with Mr. Meyler on Sept. 1 or 2, and came back a month later with nothing done. He said the BOS is concerned about protecting the Town's assets and exposure.

Mr. Ready then asked about reconciliation procedures and Mr. Meyler said it looks like the cash has not been reconciled for 18 months and he and the Treasurer's Office have different ideas on reconciling and what forms to use, etc. Mr. Johnson asked the Town Manager to work out any internal misunderstandings with the Town Accountant and the Treasurer. Mr. Ready commented that we still have to go back to July 1st so we won't be right up to date and Mr. Lynch said we won't really be up to snuff until the books are closed for FY92.

All Board members stressed that the FY92 books must be closed within three weeks.

Mr. Blomgren read a list he had drafted in September and Mr. Myler answered yes or no to each statement. Mr. Ready said we appear to go from month to month and each month we fall further behind. He also told Mr. Myler to let Mr. Lynch know what he needs and of any disagreements with department heads.
Mr. Lynch said that it is the job of the Town Acountant to keep the books clean, up to date and complete. He also said what we really need is the balance sheet, Schedule A and a Free Cash figure.
Mr. Ready again referred to his memo to Mr. Meyler regarding restricted access to the Accounting Office, stating that we should stick to these 3 points until the books are closed. It was decided that the Auditors could use the former Veterans' Agent office next to Accounting. Mr. Logan said that it is up to the Town Manager to get things straightened out with the Accountant and the Finance Director.

Mr. Meyler then left the meeting, with the understanding that FY91 books will be closed at all costs and he and the Auditor will meet with the Board again in two weeks.

Attorney James Harrington joined the meeting.

Mr. Lynch then discussed collective bargaining and potential litigation with regards to Police Officer Floyd. He told the Board that the Police Chief held a hearing and that Attorney Jack Chinian prosecuted. Attorney James Harrington was the legal adviser to the Chief. Mr. Lynch said he expects the Chief to terminate Officer Floyd, but he could appeal to Civil Service. Mr. Harrington said he thinks that Chief McKeon did a good job but the Board should thank him after the fact. They could send him a letter saying that the procedure was handled appropriately and judiciously.

Mr. Lynch reported to the Board that we have received 97 resumes for Finance Director and that he has narrowed the candidates down to eight. He interviewed only people currently working as Finance Directors, Treasurers and Tax Collectors or in the Collection and Revenue Dept. He is leaning towards Fred Mansfield and will have a recommendation by February 24th.

At 10:30 p.m. motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. ReAdy-Aye.

For the Board of Selectmen, by

Judith E Carter

Executive Session of the Board of Selectmen held Monday, May 18, 1992 at 8:00 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem, and Roger A. Blomgren. Chairman William R. Logan was absent. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present. The purpose of the meeting was to bring the new members up to date on pending litigation and collective bargaining.

Mr. Harrington submitted a list of all pending litigation and briefly went over each case with the Board:

1. Kinney vs. Lynch Sexual Harassment case: the insurance company is providing coverage on all counts except assault and battery and intentional emotional distress. He has recommended that we direct all inquiries to the insurance company. Mr. Lawlor said that he wouldn't make specific inquiries into the facts, that it is not germane at this point. Mr. Harrington said that the six month period ended in February and they have not brought suit against the Town yet. The prior Board had Attorney Mike Collora handle the matter. His fee is $150 per hour and the insurance company only pays $110 so the Town will pick up the $40 difference. $110 is charged for all other members of his firm. There was $5,000 deductible under our policy but this had already been paid. Mr. Harrington said the case is being handled well and he is monitoring it.

2. Conservation Commission vs. Doherty/Pare: this is not in suit yet. It appears there may be ramifications. The Conservation Commission is not in complete agreement and the matter was very inflammatory at one point.
Mr. Harrington explained Executive Sessions, saying that when a Board or Commission goes into one they may ask anyone to attend or anyone to not be present.

3. Voulgaresi vs. Town of Chelmsford and Police Department: insurance case. The father took the children to Greece and the mother feels the Police Dept. should have taken further action to keep the father from leaving our jurisdiction. They are asking for $100,000 but we're insured for that.

4. Trustees of Courthouse Square Shopping Center vs. Drum Hill Realty Trust and Board of Appeals: the plaintiff is appealing the granting of Specific Permits by the Board of Appeals for the expansion of the Caldor Drum Hill Shopping Center. Drum Hill Realty will pay for a traffic light and landscaping. Mr. Harrington said it is his job to show that all procedural processes have been met and that the decisions by Town boards conform to the statutes.

5. **St. Vartanantz Armenian Church vs. Board of Appeals:** they are appealing the denial of a Special Permit to operate a function hall. The question was asked if a member of a board makes a motion to do something can he then vote against the motion, under Roberts Rules.
Mr. Harrington said that his office will defend the action of the Board of Appeals, and the question is is the Church looking to get into the profit business.
Mr. DeFreitas asked for a road map of the appeal process, and Mr. Harrington said that both the Conservation Commission and the Board of Appeals are acting under the statutes. Mr. Lynch explained the functions of both Boards. Mr. Lawlor commented that the only intra-municipal appeal process is a that an applicant denied by the Building Inspector can go before the Board of Appeals.

6. **Robert Pereira vs. Board of Appeals:** Special Permit was denied for use as a contractor's yard. Case is pending in Land Court.

7. **O'Neil vs. Mazurczyk and Board of Appeals:** A minor case - neighborhood problem. Appeal of grant of a variance for insufficient setback to complete an addition and maintain an accessory building.

8. **Colonial Gas Company:** challenging the Town's $3/foot street opening permit charge. He and Jim Pearson are trying to resolve this issue by coming up with a sliding scale depending on the size of the project. There is no legal action now, only threatened.

9. **Mazurczyk vs. Conservation Commission:** same as #7. He received Order of Conditions to pipe brook. The work exceeded the Order, and neighbors complained. Cons. Comm. issued an enforcement order to restore which is being appealed in Superior Court. Attorney James Geary is trying to resolve this with the Commission.

10. **Brandon Keene, P.I.:** Attorney has filed notice under Chapter 258 re personal injury to student who injured a tooth during gym class. Case is referred to our insurer.

11. **Drew Bissonette:** His attorney filed notice under Chapter 258 alleging that the School Dept. failed to properly identify special needs. The student became violent and investigation revealed that he is a Lowell resident. Case had been turned over to insurance company.

12. **Sydni and James Garrity vs. Town:** Suit alleging that plaintiff struck a tractor trailer on Alpha Road. Allegation that a street light in the area was not working properly hampering visibility and that police had observed the trailer dangerously parked and took no action. McCarthy Law Office depending on behalf of the insurance company.

13. **City of Lowell vs. Town:**

Mr. Brem left the room since his company does work for the City of Lowell and there is an apparent **conflict of interest.**
Claims by City of Lowell for capital costs under Intermunicipal Agreement. They are demanding payment of app. $3,000,000 and we have offered $311,009.09, which is not covered by insurance. The two Managers have agreed that the two engineering firms work out the details on costs, and also our Treasurer and legal counsels are involved. If ordered to pay we have money in bond issue.
Mr. Lawlor asked if there is a lawsuit and we have to pay $2 - $3 million is this bondable and Mr. Harrington said Yes. Mr. Lynch said that Dracut has agreed to pay $1.2 million but Chelmsford and Tewksbury will not pay the requested fees.
Mr. Brem returned to the meeting.

14. **Jimmy's Subs vs. H & H Limited Partnership, Chelmsford Board of Appeals:** matter called for trial and dismissed when plaintiff failed to appear.

15. **Robert M. Schneider and Patricia Sonnelder vs. William Koslowski, Chelmsford Board of Appeals,** Land Court No. 153724:
Plaintiffs appealing Board of Appeals decision to grant William and Shelia Koslowski a variance to construct a duplex dwelling on land with insufficient frontage and width. Trial is set for June, 1992.

16. **Mass. Bituminous Products vs. Board of Appeals,** Land Court No. 149354
Plaintiff is appealing Appeals decision which denied the company a special permit to convert a parking area into a contractor's yard at 16 Oak Street. Mass. Bituminous bought out the Gordons, abutters. Mr. Lynch is looking into the matter and will report to the Board, and will take enforcement action if they are in violation.

17. **Dennis J. Auger vs. John Chase, Board of Appeals,** Land Court No. 134663
An agreement for judgment was reached in favor of the Town and additional conditions are added to the Special Permit.

18. **Bailey Laughlin vs. Earl Carlson, Apple Country Club and Board of Appeals:** Plaintiffs appealing Special Permit granted to Apple Country Club. Trial scheduled for June 17, 1992.

19. **Diane Govoni vs. William Spence and Board of Appeals:** matter was tried and judgment entered in favor of the Town.

20. **Frederick Kilmartin vs. McClure and Board of Appeals:** matter was tried and judgment entered in favor of the Town.

21. **Conservation Commission vs. Earl J. Thompson:** this is a violation of the Wetlands Protection Act. The restoration has been completed and needs review by the Conservation Commision. When asked Mr. Lynch said that all use of Town Counsel has to be cleared through him except by members of the BOS. Mr. Brem asked if we need a policy on this, and Mr. Harrington said that, for example, the Conservation Commission comes through Mr. Lynch, that he permits the use of Town Counsel, and Town Counsel and the Town Manager keep tabs on the cost and decide which cases should be prosecuted. Mr. Brem asked if the Board of Selectmen shoud authorize the Town to sue, and Mr. Lynch said that when Boards or Inspectors move forward to enforce the rules and regulations that is an administrative function.
Mr. DeFreitas asked when would the Town Manager ask the Board when to proceed, and Mr. Lynch answered in a major case or a major financial settlement of anything over $5,000.
Mr. Brem said he will draft a policy statement that if any suit is in excess of $10,000 it should come to the Board.
Mr. Lynch said that the Board should meet quarterly or semi-annually with Town Counsel to review cases. and Mr. Blomgren said we should do it only on a net change basis.

22. **Conservation Commission vs. Beverly Keenan:** action brought for alleged wetlands violations, and Town has had to go to Court several times to keep drainage open. Mr. Harrington said this may continue for some time because of the defendant's uncooperative behavior.

23. **Chelmsford Historic District Commission vs. Alfeiri and Associates d/b/a West Coast Video:** case called for trial and judgment entered for the Town.

24. **North Chelmsford Auto Parts vs. Town:** action dismissed by agreement of parties. Cons. Comm,. has issued an enforcement order detailing the corrective actions required on the property and the owner is in substantial compliance with the terms of the order.

25. **Town vs. Michael Murphy and Chongris & Sons, Inc.:** matter called for trial and an agreement for judgment entered. Defendant presently before Cons. Comm. under this judgment.

26. **Evelyn Donovan vs. Town, Donald Walsh, William Spence,**

Center Water District and Police Department: allegations of alleged entry by a police officer and the constable. Insurance company has assigned the case to Morris, Mahoney and Miller, who will provide a defense for Bill Spence and Officer Walsh.

27. **Joseph Matezak vs. Michael Stott and the Town:** no suit brought yet.

28. **Lawrence E. Sweeney vs. Richard Adams, James Greska and Town:** civil rights action settled without any payment and action dismissed.

29. **Lawrence E. Sweeney vs. Town:** action to enjoin the Town from enforcing temporary political signs under the zoning by-law. Zoning by-law amendment passed at Town Meeting.

30. **Charles George Trucking Co. Landfill case:** Mr. Harrington explained to the Board that this is being handled by Kopelman and Paige, it is a hazardous waste site and clean up has cost $60 million. Mr. Lynch said that settlement with the EPA is in the $45 million range. Mr. Harington said that our insurance company has paid our legal fees and we are hoping they will pick up any judgment; however, there is a ruling that hazardous waste in a landfill is not a sudden occurence, and thus not subject to payment by insurance. There is an attempt to get federal legislation to put a cap on what the EPA can expect in payment from communities in a case like this.
Mr. Harrington said it is time for the Board to sit down with Kopelman and Paige, and Mr. Lynch recommended asking them in for an Executive Session on June 15th at 6:00 p.m. Mr. Harrington said that this case could cost the Town a substantial amount of money. Mr. Lynch commented that Rep. Chet Atkins has done a good job, but our maximum exposure could be $2 - $4 million.

31. **Westford Street Landfill:** McGregor and Shea are representing the Town and have been told not to spend much money. Most of the expenses have been paid by private abutters. Mr. Lynch said that the landfill is supposed to be closed by December.

32. **Edward Hilliard v. Gordon Eng:** case has been settled.

Mr. Blomgren asked about **Frequency Sources** and Mr. Lynch said he has talked with Jim Geary and they did tests on the property across the street and did find leakage. They are now waiting for the DEP. They will be asked to attend the June 29th meeting.

Mr. Brem asked about the **Swain Road Landfill** and Mr. Lynch said that this case is handled by McGregor and Shea. Mr. Hicks is to pay for landscaping and administrative costs. He asked about the

Stoney Brook Rod and Gun Club and Mr. Lynch said that the Good Neighbor Law was passed in December, so the gun club is exempt from any noise laws. There is no shooting permitted between 10 pm and 7 am. Club Directors will be sitting down with the Westford and Chelmsford neighbors. The Department of Environmental Protection said cases like this are a low priority.

Mr. Harrington left the meeting at 9:40 p.m.

Mr. Lynch told the Board that on the matter of **collective bargaining** all union contracts are up the end of June.
He has spent the most time with the Fire Union, the Police have postponed again, and he hasn't met with the Clerical union yet. The basic philosophy is to eliminate percs and conditions in the contracts, so we can compare wages with other towns, for one thing. He wants to increase management power and look for things that act as an incentive.
Mr. Lynch said that so far he has worked without counsel, but the first contract with the Library will be handled mostly by counsel so he is going with Mary Mahoney and Jack Chinian as counsel.

Mr. Lynch said that he doesn't have Board members sit in on bargaining because of politics - they are in the hot seat.

With the **Fire Union**, none of our proposals have been rejected yet; Proposals put forth include:
Call in Pay - now three, reduce to two; **Work Clothes and Equipment** - no increase this year; $25 and $25 next 2 years; **Vacation** - they are now paid for a 56 hour week when the work average is only 42. This has been redefined to 48 hours, and after 20 years they get 5 weeks vacation. Under **Minimum Manning** we propose to delete this article, and they have been notified that effective June 30th the contract is terminated. Manning is not a mandatory issue. **Holidays** - we are now paying triple time. This will change to double time. Pay is now for 10 hours and this will be redefined to 12 hours for a holiday.

Mr. Blomgren stated that the Board can give a statement to the Town Manager telling him what they want him to do.

Under the proposals, they will be given 8 shifts, rather t n 4 for **Union business; Sick leave time buy-back** - we are tryi to cap this off and they are considering it. Mr. Blomgren ask what is expense neutral and Mr. Lynch told him that taking little play, maybe $20K.
The average fireman will have less work and less pay under r proposed contract - app. $35K compared to $59K.

Longevity - we are flattening it out; **Westford coverage** - deleted; **Private details** - set at Police detail rate, not at time and one-half; **Personal Days** - now 2, they want 1 - 2 more for people with between 5 and 19 years service.
Mr. Lynch said that it averages out to: 1993 - give 5%, save 5%; 1994 - give 4%; and 1995 - give 4%. Net is 0 - 4 - 4.

Police: currently have 39 patrolmen and 8 sargents, add 6 more; eliminate minimum manning; change vacation definitions; eliminate longevity; change sick leave.

Clerical: Change sick leave buy-back and holidays; eliminate longevity.

Highway - change to Working Foremen.

Mr. Lawlor said he wants an Executive Session for reviewing the performances of the Town Manager and the Town Accountant - have goals been set and met?

At 10:50 pm motion by Mr. Lawlor, seconded by Mr. Brem, to go out of Executive Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, June 18, 1992 at 7:00 p.m. to discuss Collective Bargaining. Members present were: Mr. Logan, Mr. DeFreitas, Mr. Lawlor, Mr. Brem and Mr. Blomgren. Judith E. Carter, Administrative Assistant, was also present.

Mr. Logan said the purpose of the session is to measure the Town Manager's performance and his goals and objectives, that it is the duty of the management team to set goals and objectives for him. Mr. Lawlor said he has prepared the standard personnel evaluation form.
Mr. DeFreitas reviewed the contract, noting that Town Manager Bernard Lynch is in the second year of a three year contract. The first year called for 3 months severance pay, and the second year 6 months if he is living in the Town.
The question of Mr. Lynch's residence was discussed and Mr. Logan commented that you have more vested in the Town you live in, and he also doesn't think it would be prudent to give Mr. Lynch a raise until he settles with the unions. Mr. Blomgren said we could ask him to show indications of moving into Town by the first of the year. The waiver of residency voted by the Board on June 17, 1991 appears to be open ended, and Mr. Blomgren said we could waive residency for the remainder of the contract.
Mr. Lawlor commented that residence is not relevant to performance and doesn't show lack of commitment. With the pending harassment suit he could be uncomfortable living in Town.
Mr. Brem noted that it says in the Charter that he must live in Town and that it can't be waived indefinitely. Mr. DeFreitas and Mr. Brem said that personally they don't care where the Town Manager lives.

As a matter of Policy the board should receive a copy of the contract and the letter of extension each year.

Motion by Mr. Blomgren, seconded by Mr. Brem, to get a clean copy of the contract, with the June 26, 1991 letter waiving residency included as a codicil, to be signed by Mr. Lynch and Mr. Logan for the Board. It is to be understood that the Board does not intend to issue further waivers after December, 1994. The Board will vote to waive the residency clause of the contract under New Business at the June 29th meeting, and it will be stated that it is the Board's intention to enforce the provisions of the Charter at the end of the current contract.
Roll Call vote on the motion was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

Mr. Blomgren recommended that the Board ask Mr. Lynch to do his own evaluation for the Board's review, that each Board member assign his own values and goals and they will all be incorporated into the final report.

Motion by Mr. Blomgren, seconded by Mr. Brem, to ask Mr. Lynch to do a self-evaluation of his performance against his stated goals and objectives, and also ask for his goals for the next year and his suggested compensation, which would include the Board's concerns about the sick leave buy-back.

Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

The Board will ask **Town Accountant Bernard Meyler** to go through the same process for a July meeting. Motion by Mr. Blomgren, seconded by Mr. Brem, that the same motions apply to Bernard Meyler. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

At 8:05 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn to the Work Session. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye and Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, July 13, 1992 at 8:00 a.m. to discuss collective bargaining. Members present were: Mr. Logan, Mr. Lawlor, Mr. Brem and Mr. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Lynch said the purpose of the meeting is to bring the Board up to date on collective bargaining issues. The Highway contract has been settled. He went over the various issues and articles with the Board:

Article 9. Compensation and Fringe Benefits. Longevity is eliminated in the new contract and sick leave buy-back is frozen at the 6/30/94 level.

Clothing allowance to be increased by $25.00 per year. They have to show receipts for what they purchase. The Fire Dept. has a list of who they can buy from and what they can buy.
This is a 3-year contract.

Article 16. Condition of Employment. Section 1. Alcohol Prohibited. This clause was new a couple of years ago. Mr. Blomgren asked that the header be changed to "Controlled Substances".

A discussion was held re driver's licenses and it was determined that A Commercial Driver's license doesn't have to be a Massachusetts license.

Under Other Provisions it is stated that there will be no lay-offs for 3 years, and at least 12 men will be kept on in the department. Mr. Blomgren said that this shouldn't be put in the contract but should be a separate memo of understanding. Mr. Lynch said he will see if they will take a separate letter from him guaranteeing no lay-offs.

The wage adjustment is a 5% increase now to the base rate to offset the dropping of longevity, and increases of 3% - 4% - 4% for the 3 years of the contract. Longevity has been based on 1 1/2%, 3%, 4 1/2% and 6%. The elimination of longevity now and sick leave buy-back on 6/30/94 will result in savings of $34,000 per year 15 years from now and $103,000 per year 20 years from now. The total amount of increase in FY93 is $15,000.

Mr. Lynch said that the Cemetery contract is the same as Highway, and the Board said they will basically agree with the contracts as presented.

Motion by Mr. Lawlor, seconded by Mr. Brem, to authorize the Town Manager to sign the two contracts on behalf of the Board, with the exception of the lay-off language on Page 6 of the Highway contract. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye and Mr. Logan-Aye.

At 8:50 a.m. motion by Mr. Brem, seconded by Mr. Lawlor, to adjourn. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, October 1, 1992 at 7:00 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard F. Lynch, Adm. Asst. Judith E. Carter, Town Counsel James Harrington and Attorney Karen Kelly of Kopelman & Paige. The purpose of the session was to discuss pending litigation.

Atty. Kelly told the Board the latest in the Charles George Trucking litigation and presented copies of the settlement itself - the Consent Decree and the Escrow Agreement. She called attention to the time frame on Page 15, and pointed out the commitments under the Consent Decree. The Board has to sign both documents on a signature page to be furnished by counsel, and there is no request for a Town Meeting vote for funding and no opinion from the Dept. of Revenue on this matter. She told the Board that Burlington went to their Town Meeting and got their appropriation but several other towns have not. Both Ms. Kelly and Town Counsel Harrington felt there is no risk in us not going to Town Meeting, since the law says the BOS is the agent for paying suits for the Town.
Ms. Kelly said that para. No. 5 of the Consent Decree states that this will settle all outstanding claims and become a judgment when approved. The Board has to inform the Commonwealth of the Town's chosen payment option. We must pay $801,000 within 10 years. If we get the full lump sum from CIGNA, we can pay up front or there is a 10 year payment option at 4%. She has put a demand on CIGNA for $600,000.
Ms. Kelly went over the time frame in the Consent Decree - on August 27 all settling defendants have settled into escrow, and November 9 is the last date for the Town to pick a payment date and sign the decree. We can pay either a lump sum or $80,000 for the first of 10 payments within seven days after the notice thst the consent decree has been approved by the court. We will sign by November 9th, The Justice Dept. is expecting to file a decree with the court in early Dec., there will be a 30 day comment process and after 30 days the judge will hold a hearing for those not signing the decree. The Georges will challenge the decree and other parties may challenge. We can pay the CIGNA money on March 7 and make the remaining payment dates when we want.

Attorney Kelly then discussed the status of the insurance settlement and the status of special legislation. She said that CIGNA failed to respond to the Town's initial demand but that we have great coverage under CIGNA, with no pollution exclusion. She cited other landfill cases and the sudden and accidental release of contaminants, noting that it is a law that can go both ways, helpful to us and not helpful to our case.

Ms. Kelly said she doesn't think the insurance comopany will come up with $600,000 but that we will get as much by way of settlement as we can, since it is expensive to fight an insurance company and no company ever pays 100%. Under Mass. Law the insurance company has a broader duty to defend than to indemnify. Ms. Kelly said she is looking for direction from the Board and her advice is not to litigate against the insurance company if we get over 50% of what we owe. CIGNA has already paid app. $70,000 to Kopelman & Paige for defending the Town. Ms. Kelly said she will get an answer from CIGNA shortly and will forward it to the Town Manager and the Board can decide if this is acceptable. After November 9 our ability to negotiate with the insurance drops off after we've signed the decree.
Ms. Kelly also said that she has told CIGNA that the Town will not sign the decree unless they also make a contribution and their risk also goes up if we don't sign; however, if we don't sign they won't pay any more of our defense costs.
Mr. Logan said the Board will meet with Mr. Harrington at 6:30 pm on Monday, October 5th and send more feedback to Ms. Kelly on Tuesday.
Mr. Lynch asked if we go after CIGNA on a Declaratory Judgement could we get nothing and Ms. Kelly said Yes. Mr. Lawlor asked if there are any third party defendants who might contribute to us and was told No. There is contribution protection if we enter into a settlement and anything that arises out of covered matters under the decree. We have narrow re-openers, and she pointed out paragraphs that state rights against settling defendants.
Ms. Kelly said that governments will go after deep pockets before they will go after the Towns. The EPA report dated September 23rd states that the way the law is drafted now applies to all cases until the final judgment is entered on March 1st. She added that the attorney generals are disturbed with lobbying efforts made by municipalities and they are now actively lobbying against our legislation.
The reasons to consider entering into a settlement and whether or not to go to Town Meeting will be discussed on October 5th.

At 8:10 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn to open meeting with the auditors and school department. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, October 5, 1992 at 6:45 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present. The purpose of the session was to discuss pending litigation, the Charles George Trucking case.

Mr. Lynch said that he had spoken with Atty. Karen Kelly of Kopelman & Page and Mr. Harrington said he also has spoken with her and she is waiting to hear from CIGNA. She faxed material to the Board today noting a second ruling that is unfavorable to a defendant such as the Town, and is hoping to get an offer from CIGNA. Mr. Harringon commented that the law is not favorable in our case against CIGNA and he thought we did well to get the legal fees paid. Ms. Kelly was hoping for a 50% offer and Mr. Harrington would advise the Board to accept an offer.
Mr. Lawlor asked if we take the $801,000 settlement by November 9, and how do we handle our realtionship with the insurer - take what is offered or get aggressive.

Mr. Harrington told the Board that the case will be left open if items come up that weren't known at the time of the settlement - a re-opener clause, and they have to do a certification on the closure. Mr. Harrington said he recommends that we give consideration to the $801,000 settlement but not until we negotiate with CIGNA. He and Ms. Kelly both recommend that the Board accept it.
Mr. Harrington gave the background on how we got Kopelman & Page, stating that they've struck the best deal for municipalities and our % seems a fair share. He said there is a great exposure in the agreement itself and it would be very costly for the Town to go off on its own. He thinks CIGNA will pull out on paying our defense. Ms. Kelly had said that they've paid her firm $70,000 in legal fees, and if we stayed in alone, we'd be fighting the Justice Dept. and Attorney General's office. Ms. Kelly recognizes the exposure and is afraid the Board won't see it and is urging them to accept the settlement.
After discussion Mr. Harrington said he will communicate to Ms. Kelly that the Board informally accepts the settlement and he will get the vote when she needs it.

At 7:05 p.m. motion by Mr. DeFreitas, seconded by Mr. Lawlor to adjourn to Open Session. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; and Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, October 8, 1992 at 7:10 p.m. at the Senior Center on Groton Road. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the meeting was to discuss collective bargaining and pending litigation.

Mr. Lynch went over the contract that has been accepted by the Fire Union.
He said he feels it is a good contract for the Town and the key points are that it is for 3 years, the first year there is a $750 signing bonus for each employee which is a one time only deal and not added to the base salary. The funding cost for the first year is $58,000. He went over the other points, that the salary schedule has been replaced, now taking 8 years to reach the maximum rather than 3. Call in pay has gone from a 3 hr. minimum to 2 hours, holdover pay from 3 hrs. to 1 hour. A year ago they didn't respond to Mutual Aid, now they do with no problem. Work Clothes allowance is going up $25. per year, for a cost of $3800 for 3 years, vacation week is going from 56 hours to 48 hours (a typical shift) and after 20 years, 5 weeks vacation, an increase of 16 hours. Minimum manning is gone, which could save us $90,000 per year. Re Holiday pay, if they worked holiday they have been getting triple time, now will get double time. Union business allowance has increased to 8 shifts total (12 hour shifts). Sick leave - they now can cash out 15 sick days per year - this has been eliminated, which will save app. $50,000. Sick leave buy-back has been frozen for existing personnel. Mr. DeFreitas commented that most of the old percs are gone in this new contract, so now it can be compared to other salaries. Mr. Lynch told the Board that we have added as a sick leave bonus up to 3 shifts will be paid if no sick time is used during a calendar year. Longevity will be based on dollar amounts, rather than percentage, which is a major savings. EMT Certification - bonus goes from $300 to $800, but no one has the certification. Westford coverage -language had prohibited - now removed completely.
Private detail rate - same as police - $27.00 per hour.
Fire prevention personnel will now work a 40 hour week, with a 5% salary adjustment. This is a savings of 2%.
Basic salary is now $14.00/hour; proposed is $12.12/hour. It will take new employees longer to get as much.
The analysis shows that over 20 years the savings is $23,286. per year.

Mr. Lynch said this is a good contract and the firefighters are happy. The Board felt that the signing bonus may be precedent setting.

At 7:45 p.m. motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn for the Citizen Forum and reconvene at the end of the meeting. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

CHELMSFORD BOARD OF SELECTMEN
EXECUTIVE SESSION
SEPTEMBER 2, 1992

The duly noticed meeting of the BOS was convened in the Selectmen's Offices at 7:00 p.m. on September 2, 1992.

Upon motion of Rich DeFrietas, seconded by Jeffrey Brem it was voted to go into Executive Session for the purposes of collective bargaining. Members of the BOS, all of whom were in attendance, voted unanimously to go into Executive Session. Also present during this Executive Session was the Town Manager, Bernard F. Lynch. In the absence of the Board's secretary Judy ~~Olsen~~ Carter, Selectmen Peter Lawlor took the minutes of the meeting.

The purpose of the Executive Session was to begin discussion of Town Manager Bernie Lynch's evaluation. The meeting began with Mr. Lynch leading the Board through his July 7, 1992 evaluation, point by point identifying those items contained within that evaluation. Following Mr. Lynch's summarization of his July 7, 1992 evaluation, Selectmen Blomgren made the recommendation that the Manager ought to be using new monies which come into the Town, as an example, the 500,000 + dollars coming to the school department to invest in infrastructure and not in new personnel. Selectmen commented that additional staff tend to represent ongoing costs which would not be likely to go away quickly.

Town Manager, Lynch went on to discuss his intention during the upcoming year to better delegate his responsibilities to members of his office staff, specifically he indicated that he would be sending Elaine to accounting, Marian Currier would be likely to be more of a front person and deal more with personnel and constituent services and Mary would be likely to take over some of the items which Marian had previously been doing.

Executive Session was thereafter terminated so as to allow the Board to attend its regularly scheduled meeting at that time.

The previously commenced Executive Session meeting of the BOS was reconvened on September 8, 1992 within the Selectmen's Office, again on motion duly made and seconded it was unanimously voted by the Board to go into Executive Session for the purpose of discussing collective bargaining.

Discussion of Town Manager Bernard F. Lynch's evaluation thereafter continued.

At this point each of the members of the BOS took an opportunity to address areas of Mr. Lynch's evaluation which they felt merited additional attention.

Chairman Bill Logan: Chairman Logan indicated to Mr. Lynch that he feels that the Manager takes on too many varying responsibilities and tasks, at times causing some of them to get less attention than they deserve. Additionally, Chairman Logan indicated that Mr. Lynch quotes the charter too frequently. Chairman Logan concluded his remarks by noting that he would like Mr. Lynch to let members of the Board know more of what he is doing and to keep the Board better informed in items such as upcoming town warrant items.

Selectman DeFrietas: Selectmen DeFrietas noted that Mr. Lynch should not have to defend the Manager's role and responsibilities all of the time. he felt that Mr. Lynch should not be as defensive as he is. Selectmen DeFrietas went on to indicate that in his opinion, Mr. Lynch's communication with Town employees and department heads was better than it had previously been but could still use improvement.

Selectmen Blomgren: Selectmen Blomgren felt that a monthly highlight report would be an excellent way of letting the Board know what was happening on a more regular basis. In his opinion perhaps a two page summary would be an excellent mode of doing this. Selectmen Blomgren went on to suggest that Mr. Lynch establish quarterly goals that he intends to achieve and to regularly report to the Board what those goals are and what the status of achievement is. Mr. Blomgren went on to suggest that Mr. Lynch do a better job in briefing the Board before its meetings. Specifically, Selectmen Blomgren cited that a desire to know such things as how many licenses the Board still has in its possession prior to a hearing on a license application. Additionally, Selectmen Blomgren would like Mr. Lynch to advise the Board if one appearing before the Board has been before the Board previously as to just what occurred during that past appearance so as to refresh the Board's recollection. Selectmen Blomgren again went on to indicate that he felt that Mr. Lynch could do a better job on follow through than he had been doing during the past year and suggested that as an area deserving additional attention. Mr. Blomgren concluded by noting that Mr. Lynch should advise the Board better as to what specific staffing roles and responsibilities are within the Selectmen's Office.

Selectmen Brem: Selectmen Brem noted that it was appropriate for Mr. Lynch to "flex his muscle" when the charter was changed. However, Mr. Brem felt that there was a strong lack of communication between the BOS and the Manager. To remedy this situation, Mr. Brem suggested the following changes:

1. a weekly fax to the Board with Mr. Lynch's schedule and what meetings he had envisioned for the upcoming week.

2. a brief blurb within the fax as to different events which were going on within town.

Mr. Brem concluded his comments by noting that the public perception of Mr. Lynch within the Town needed improvement as an example cited the harrasment suit currently pending.

Selectmen Lawlor: Selectmen Lawlor suggested that Mr. Lynch feel more comfortable with candor in expressing his opinions to members of the Board. Mr. Lawlor indicated that he would like Mr. Lynch's opinion more often that he tends to give it. Mr. Lawlor went on to indicate that he would like to see Mr. Lynch more involved in civic affairs not specifically within the Town, such as charitable or cultural organizations. Mr. Lawlor indicated that this is just evidence of Mr. Lynch's commitment to the Greater Chelmsford Community. Mr. Lawlor further indicated that he wanted Mr. Lynch to innovate more. That the Board look to him to have some of the "big picture" prospectives and to frequently share those larger perspectives with the Board.

Chairman Logan summarized some of the opinions of the Board which he would like to see Mr. Lynch follow through on specifically:

1. a weekly fax to the board containing Mr. Lynch's upcoming calander, similar to that which he already furnishes to his department heads.

2. A monthly report designed to advise the Board as to the status of various events going on within Town.

3. a quarterly summary of the status of Mr. Lynch's goals and where he stands on achieving those goals.

At this point a discussion was had relating to Mr. Lynch's compensation. In response to specific inquiry from the Board, Mr. Lynch indicated that his compensation his presently $69,140.00. Additionally, Mr. Lynch receives a $250.00 a month car allowance, with no mileage. The Town also pays for 60% of

the cost of his town-furnished health insurance. Finally he is given three weeks vacation per year.

Mr. Lynch indicated that what he would like to have in the way of compensation changes this year would be a 6% increase and Town-furnished disability insurance. It was noted that a 6% increase would bring his currently salary up to $73,288.40.

While the Board did not take any vote with respect to what compensation changes, if any, it would make for Mr. Lynch, it was the expressed opinion of the Board to defer implementation of any change in Mr. Lynch's compensation package until such time as he had settled his major contracts.

Mr. DeFrietas additionally noted that it is his wish that the Board not vote on this now and just not announce it until after the contract negotiations, his feeling being that the thought that would be deceptive to the Towns people.

At 7:25 the Board voted to adjourn its executive session by unanimous vote of the Board so as to allow the Board to attend their regularly scheduled meeting.

Faithfully submitted

Clerk Board of Selectmen

Peter V. Lawlor

Executive Session of the Board of Selectmen held Monday, September 21, 1992. Members present were: William R. Logan., Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Bernard Lynch, Town Manager and Judith Carter, Adm. Asst. were also present.

Mr. Lynch referred to a letter dated September 8 regarding compensation for James Harrington, Town Counsel. He recommends a 5% increase since in his opinion Mr. Harrington's performance has shown a big improvement, he has helped many Town officials represented the Town well and protected the Town's interests in the Charles George Trucking case and the Duck Island litigation. He also brought in the insurance company in the litigation re Mr. Lynch. Mr. Lynch feels that putting him on a monthly fee has made him pay greater attention to Town matters.
Mr. Logan said that he is now receiving $60,000 per year plus benefits, i.e. health insurance and retirement plans, and he feels that Mr. Harrington has been accurate and attentive.
Mr. Blomgren said he wants documentation on his perforamnce and feels we should only give him 2 1/2%. If we give him more it will effect collective bargaining.
Mr. Lynch said that Mr. Harrington went into it blind last year and tried to keep the costs down. He also has a separate sewer contract that pays him app. $40,000 per year.
Mr. Brem commented that Mr. Harrington has responded effectively to him and that he came up with a unique, creative plan for the Sewer Commission to finally get Littleton Road paved.

Mr. Lawlor asked for a job description and said it should be a condition of his employment that he will not accept as a personal client anyone who might come before a Town board.
Mr. Blomgren said we should: look at his contract; look at statements of accomplishment; and expectations - neither he nor his firm should take any clients who might go before any Town boards.
Mr. Lynch recommends that the Board stay with a local attorney as internal counsel and bring in specialists as needed. He will try to have the requested information for the Executive Session on October 1st, when we will be discussing the Charles George case and then the management letter.

Motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn the meeting at 10:40 p.m. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; and Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, October 19, 1992 at 6:30 p.m. at McCarthy Middle School. Members present were: William R Logan, Richard E. DeFreitas, Peter V. Lawlor and Jeffrey A. Brem. Roger A. Blomgren joined the meeting later. Town Manager Bernard Lynch, Town Counsel James Harrington and Adm. Asst. Judith Carter were also present. The purpose of the meeting was to discuss pending litigation and collective bargaining.

Mr. Harrington said the Board has talked about signing the Consent Decree and Escrow Agreement in the Charles George Trucking litigation. We have now settled with the insurance company on this matter for $500,000.
Mr. Lawlor said that Mr. Harrington and Attorney Karen Kelly have both done a wonderful job in this case and getting that sum from the insurance company was a great achievement.
Motion by Mr. DeFreitas, seconded by Mr. Lawlor, to sign the Consent Decree and Escrow Agreement.
Motion by Mr. DeFreitas, seconded by Mr. Lawlor, to accept the settlement terms of $500,000 with CIGNA insurance company.
Roll Call vote on both motions was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; and Mr. Logan-Aye.

Mr. Blomgren joined the meeting at 6:40 p.m. Attorney Harrington left the meeting.

Mr. Logan reminded the members that anything discussed in Executive Session is not to be talked about outside the meeting until the minutes have been released.

The Board then continued their discussion of Mr. Harrington's compensation as Town Counsel. Mr. Lynch said that the contract that was accepted last year provided for additional compensation yearly, and he listed the various options the Board has in hiring a Town Counsel - local counsel, a full service firm, outside specialized counsel, in house which would be at least $60K plus overhead. He recommends staying with local counsel and a 5% raise for Mr. Harrington.
Motion by Mr. Lawlor, seconded by Mr. DeFreitas, unan. to raise Mr. Harrington's compensation by 5% and as a condition of his employment require that he and his firm use their best efforts to not take on as clients persons who might need to be represented before a Town Board. This increase is due to his excellent performance, particularly in the Charles George Trucking litigation.
Roll Call vote on the motion was as follows: Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye; and Mr. DeFreitas-abstain due to possible conflict of interest.

Mr. Logan said that he, Mr. Lynch, Finance Director Fred Mansfield and Town Accountant Bernie Meyler met last week, and it was decided that Mr. Meyler will report on a daily basis to Mr. Mansfield, quarterly to the Chairman and semi-annually to the Board. Mr. Meyler had asked aobut an increase in pay but Mr. Lynch told him he needs to go through a full cycle before any increase is discussed. He added that the Board needs to convey their concerns re his performance to him and Mr. Mansfield. Mr. Lawlor and Mr. Blomgren asked that documented discussions be placed in his personnel file, both qualitative and quantitative, and that a meeting be scheduled with him re BOS concerns regarding his performamce against his job plan and continuous non-performance.

The Town Manager's evaluation was discussed and Mr. Logan referenced a memo dated October 2 re his compensation and a salary survey. Copies will be sent to Mr. Blomgren and Mr. DeFreitas. The Board will meet in Executive Session at 6:30 pm on October 26 to discuss the Town Manager's compensation.

At 7:05 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to go out of Executive Session. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, October 26, 1992 at 6:30 p.m. at McCarthy Middle School. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the meeting was to discuss collective bargaining.

Mr. Logan told the members that the Board was discussing the Town Manager's memo of October 2nd re his compensation and review.
Mr. Lynch said he feels it is self-explanatory, including a FY92 salary survey which has been updated to FY93. The average salary of Town Managers is $73,725 (he is asking for $73,250, a 6% increase), average vacation is 20 days per year (he gets 15 days) some receive a car (he gets $250 per month auto allowance). He told the Board that Chelmsford has a larger budget and a larger population than most of the communities surveyed. Mr. Lynch is also asking for a disability insurance policy with a premium of app. $2700 yearly. The Supt. of Schools makes $79,500, with no car or disability.
Mr. DeFreitas asked for his salary history and he said 1989 - $62,500; 1990 - $66,000 plus 100% health insurance; 1991 - $69,140 and he gave back 5% and paid 40% of his health insurance.
Mr. DeFreitas asked where he sees himself in 94/95 and Mr. Lynch said he should be on a parity with the Supt. of Schools, with a 6% raise this year and 6% again next year.
Mr. DeFreitas said that with the $73,250, $300/month auto allowance, and disability policy he would be getting $79,000, as a total increase of 10%. He asked Mr. Lynch to justify a 10% increase over last year.
Mr. Lynch pointed out the financial condition of the Town, the sense of professionalism in management, changes in operations and the fact that he feels the Town is on the right course. Mr. Lynch said he has played a leading role in these changes during difficult times and he feels it reflects on his ability to manage the Town.
Mr. Lawlor said he has no problem with the compensation package and that parity is a fair thing to look towards.
Mr. DeFreitas said he sees a problem with the timing since we haven't settled with all the unions coming up for raises, and asked if giving Mr. Lynch 10% may cost us more in settling with the unions.
Mr. Lynch said he has had similar concerns, but we have gone as far as we can go with the police union, he hopes to settle with the clerical union on November 17th, and settling with the library is a long way off. He will be moving to Town in February and his new contract will help with the financing. He would forego implementation of the raise until mid-November but would like a commitment now.

Mr. Blomgren said that a 5% increase seems good, with the $50/month increase in auto expense and the disability policy. Mr. Lynch said he would accept that and the other Board members thought they could accept it also.

At 7:05 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to **adjourn to Open Ssssion.** Role Call vote was follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by
Judith E. Carter

Adjourned Executive Session held after Town Meeting on Monday, October 26, 1992 at at 10:55 p.m. at McCarthy Middle School **Members present** were: Mr. Logan, Mr. DeFreitas, Mr. Lawlor, and Mr. Brem. Mr. Lynch was also present.

A discussion took place among Board members concerning **Bernard Lynch's performance** during the past year, together with other relevant **compensation factors.** A number of Board members commented that his performance had been strong during the preceding year and that the Town finds itself in a sound financial position substantially due to Mr. Lynch.

On a motion by Mr. Lawlor, seconded by Mr. Blomgren the Board **voted to institute the following compensation** for Mr. Lynch:

1. Effective July 1, 1992 a compensation increase on his base of 5%;
2. Effective July 1, 1992 the Town shall pay Mr. Lynch $300.00 per month for auto expenses;
3. The Board agrees that it will cause to be forwarded to Mr. Lynch a policy of disability insurance. The Board requests that Mr. Lynch instruct Fred Mansfield to solicit competitive bids for the purchase of this policy and to report back to the Board at the earliest opportunity what the premiums for such coverage are.

Roll Call vote on the above motion was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

At 11:30 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by
Judith E. Carter

Executive Session of the Board of Selectmen held Monday, November 16, 1992 at 10:05 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present. The purpose of the session was to discuss collective bargaining.

Mr. Logan told the Board that he had met with Mr. Lynch, Finance Director Fred Mansfield and Town Accountant Bernard Meyler to discuss Mr. Meyler's performance. He told Mr. Meyler of the Board's concerns, and Mr. Mansfield said he feels that his peformance is satisfactory although he does need supervision and may be looking for another job. They discussed items of July concern, and Mr. Meyler said that he has some personnel problems with people being uncooperative in learning new methods. Mr. Meyler was asked to bring them up to the level they should be. Mr. Logan will meet with him again in the spring; he feels he is not responsive enough to Mr. Lynch, the Board and the Finance Committee, is hesitant to request assistance and has trouble prioritizing time, and has an inability to meet goals as stated. Mr. Lynch added that putting Mr. Mansfield in charge of the office was a good move, that schedules and reports are getting out on time. He feels that Mr. Meyler doesn't have enough municipal experience and that he is a good accountant but not realy a manager yet. He feels the Board shouldn't take a position to remove him at this time. Mr. Meyler will talk with Mr. Logan again by Friday.

Mr. Lynch said that his next clerical union meeting is the first week in December and they are reworking numbers, and told the Board that Karen Flynn is leaving on January 1st and Elaine Casey will be taking her position in the Building Department.

He will try once more to bargain with the Police Union but they will probably go to mediation the first of the year.

Mr. Lynch told the Board he is using the IRS relocation standards for costs allowed for his relocation to Chelmsford.

At 10:30 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye and Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, January 8, 1990 at 6:30 p.m. Members present were: Mr. Johnson, Miss Towle, Mr. Ready, Mr. Emerson and Mr. Blomgren. Town Manager Bernard Mynch was also present, as were Administrative Assistant Judith Carter and Town Counsel James Harrington.

Mr. Johnson said that the purpose of the meeting is for a general discussion, including sexually explicit tapes being sold to minors and the status of the Mobile Home Park matter.

Attorney Harrington stated that he has concerns about the Town's rights to restrict the sale of tapes, and the consensus is that this is a State problem, with the obscenity statute to be enforced by the Attorney General.
The Town's Adult Entertainment By-law has two problems: it never included audio tapes in the zoning by-law, and the purpose of the by-law, although it is to discourage this type of entertainment, is a constitutional issue.. We now have an Adult Entertainment by-law only for use on Town-owned land, which is to discourage this type of activity. Businesses are looking for towns with no protection. Atty. Harrington said he won't recommend that we control tapes under the by-law, and won't recommend amending the by-law or we will have to go back through the Attorney General. He added that he has concerns that we haven't zoned any land for adult entertainment. Mr. Emerson asked if we could draft a strong letter to the Attorney General placing the Board on record as asking him to enforce the obscenity statute. Mr. Harrington said he has two recommendations. Mr. Johnson said he has noted the Pennsylvania bill, and will read Mr. Harrington's letter and then have the Board word a strong letter to the Attorney General. It was agreed that Mr. Harrington will give a brief explanation at the start of the Regular Session and will say that the by-law doesn't cover audio tapes, that these come under the state statute.

The Trailer Park matter was then discussed. Mr. Harrington said that it went to trial and the judge is presently taking it under advisement. Three attorneys are involved: Cioda for the Tenants Association, London for the Trailer Park and one from the Attorney General's Office for those tenants who are not members of the association. In the middle of December they were getting nowhere and fighting; Mr. Harrington said he would referee, and met with them twice and got them in line. They negotiated an agreement, which had to go to the Tanants Association and Attorney General's office for approval. The Tenants Association has accepted it in concept, but the Attorney General thinks the rents are too high. He added that the Town has fulfilled its obligations - that we have made the parties come to an agreement. The judge had said that only part of the tenants were represented in the trial and appointed the Attorney General's office to

represent owners not in the Tenants Association. Mr. Johnson asked Atty. Harrington to also sum up this matter in regular session.
Atty. Harrington said that the judge thought the Town should be more involved and should subsidize the elderly who can't afford the rents, and feels the Trailer Park should solve the problem and that they should have a 30-year lease with the tenants.

Mr. Emerson then asked if Atty. Harrington could discuss the **Center Mall** - lights, signs, etc., and Mr. Harrington said he thought the Town had reached an agreement with Howard Hall, but West Coast Video wouldn't agree. The Town is now suing them and the barber for having signs in his car. Mr. Emerson said there should be more communication between the Board, the Building Inspector, Town Counsel and the Historic District Commission so that the tenants will know what is going on.

Mr. Emerson said he had one other item for Executive Session - that the Board doesn't get as much information as they used to, tha there is not much in the Signature folder. Mr. Lynch said he puts in everything he thinks they would be interested in. Mr. Blomgren said he wants at least weekly contact with the office, and Mr. Emerson said he wants to see copies of Town Counsel bills. Mr. Johnson said he has no problem with commmunication, and Mr. Emerson said the Chairman always has closer communication. Mr. Blomgren says he sees some fundamental issues: that the outgoing correspondence summary is a great help; that members should have at least weekly contact with the Town Manager; that if anything is going to be in the newspapers of importance members should be notified ahead of time; the Adm. Asst. should call the members if there is anything of importance that they should know.

Mr. Lynch told the members that the **Dillon case** went to the Labor relations Commission and they found no cause for a hearing.

Mr. Lynch also told the Board that he has told DPW Director Jim Pearson that he need not attend the meeting tonight as requested, since he has been very busy working on his budget but he will come in to the next meeting. He also noted that Alpine Lane is a mess, and that the first goal is to have the fire trucks able to get in.

At 7:15 p.m. motion by Miss Towle, seconded by Mr. Ready, to adjourn. Roll Call vote was as follows: Miss Towle-Aye; Mr. Ready-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Mr. Johnson-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, February 26, 1990 at 9:50 p.m. to discuss collective bargaining. Members present were: Mr. Johnson, Miss Towle, Mr. Ready, Mr. Emerson and Mr. Blomgren. Bernard Lynch, Town Manager, and Judith Carter, Administrative Assistant, were also present.
Mr. Lynch told the Board that a Highway Dept. worker, Stephen Harvey, was caught drinking in a Town truck on Water Dept. land and was suspended for 90 days. The Wine Rack told Mr. Lynch that Mr. Harvey is a regular, daily customer.
Mr. Lynch said that he has been negotiating with the Police Union and has talked the 4-4 compensation that the Fire Union setttled on. He went over the details of the offers discussed with them and Board members commented on various items.

At 10:00 p.m. motion by Miss Towle, seconded by Mr. Ready, to adjourn. Roll Call vote was as follows: Miss Towle-Aye; Mr. Ready-Aye; Mr. Emerson-Aye; Mr. Blomgen-Aye; Mr. Johnson-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, July 2, 1990 at 10:30 p.m. **Members present** were: Ms. Towle, Mr. Ready, Mr. Johnson, Mr. Emerson and Mr. Blomgren. Judith Carter, Administrative Assistant, was also present. The purpose of the Session was to discuss a pay increase for the Town Manager.

Motion by Mr. Ready, seconded by Mr. Johnson, unan. to give him a $4,000 increase and pay the whole premium for his family plan medical insurance. Vote was as follows: Mr. Ready-Aye; Mr. Johnson-Aye; Mr. Emerson-Aye; Mr. Blomgren-Nay; Ms. Towle-Aye.

Motion by Mr. Ready, seconded by Mr. Johnson, to waive the residency requirement for the Town Manager for one year. Roll Call vote was as follows: Mr. Ready-Aye; Mr. Johnson-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.

Mr. Lynch then joined the meeting.

Mr. Emerson said he wants to discuss two items with the Board of Health - he has heard that Mr. Lynch has differences with at least 2 people in the department over pay raises; they claim that he is holding up their raises. Mr. Lynch explained the Charter as it pertains to the Board of Health - that Atty. Thomas Horton has ruled that the Town Manager has authority over all Town employees except the School Dept. Mr. Emerson asked why and Mr. Lynch said he wants all employees to come under the evaluation process. Motion by Mr. Blomgren, seconded by Mr. Ready, to support the action of the Town Manager. Vote was 4 in favor, 1 opposed (Mr. Johnson).

Mr. Emerson then asked about re-arranging offices, and agreed that it would make sense to switch Accounting and Engineering. Mr. Lynch said he is constantly making changes to improve efficiency.

At 11:05 pm motion y Mr. Ready, seconded by Mr. Johnson, unan. to adjourn. Roll Call vote was as follows: Mr. Ready-Aye; Mr. Johnson-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Wednesday, January 23, 1991 at 8:40 p.m. to discuss **pending litigation** with Town Counsel James Harrington. Members present were: Ms. Towle, Mr. Ready, Mr. Johnson, Mr. Emerson and Mr. Blomgren. Bernard Lynch, Town Manager and Judith Carter, Administrative Assistant were present as was Director of Public Health Richard Day.

On the subject of **North Chelmsford Auto Parts Renewal of their Class III Auto Dealer's license**, Attorney Harrington summarized his letter to the Board dated January 23, 1991, outlining the 5 conditions he is recommending be granted with the license. He said that an on site inspection had indicated the presence of petroleum products. Mr. Day said that he inspected the site with the State to see if the site should be designated under MGL 21E. The company was told to do something about the storage of these products on site, and the State determined that the property should eventaully become listed for investigation. Mr. Day explained that Mr. D' Angelo could apply for a waiver from 21E on a private basis and have a private investigation and he agrees with Mr. Harrington's recommendation that Mr. D' Angelo do so. Mr. Harrington said that Attorney Geary knows some of this, that he has offered a little but not what we want. He is recommending that they hire an engineer with expertise in this area, and said that it could cost up to $25,000 to get the site engineered and in order, and that the Town should be reimbursed for any expenses incurred by the Town.
Atty. Harrington added a 6th condition to the list, requiring that any truck over 5 tons delivering to the gate on Sleeper Street should be inside the gate within 10 minutes of arriving at the site.

At 8:55 p.m. motion by Mr. Ready, seconded by Mr. Johnson, that the Board **adjourn to Open Meeting**. Roll Call vote was as follows: Mr. Ready- Aye; Mr. Johnson-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, March 4, 1991 at 7:00 p.m. to discuss pending litigation. Members present were: Ms. Towle. Mr. Ready, Mr. Johnson, Mr. Emerson and Mr. Blomgren. Town Counsel James Harrington, Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

The subject was the investigation into various Town accounts by the FBI and subpoenas for records served on the Town Accountant and the Treasurer. Mr. Harrington said he had talked with Ralph Gants, Assistant U.S. Attorney, saying that the Town would cooperate in every way, and was told that the Accountant and Treasurer do not have to appear if the records are furnished. Mr. Harrington will notify the FBI when they are ready - since they want originals, there is a great deal of copying to do. Accounts to be submitted are all HUD and Community Development accounts; trash recycling account from the sale of recycling bins, which was established in January, 1991; and fees for licenses and permits and all cash receipts from the Board of Selectmen's Office.

Mr. Blomgren recommended that the BOS office purchase a stamp saying "For Deposit Only for Town of Chelmsford" to be used on all checks and to create a log for any cash payments, stating from whom and the purpose. All members agreed and a motion will be made in Open Session to do so.

The Board authorized Mr. Harrington to serve as liaison between the U. S. Attorney's Office and the Town. He advised the Board not to do any speculating with the press, that the only statement should be that the subpoenas have been received and Attorney Harrington is authorized to speak for the Town. He also has told the offices involved to refer any requests for documents to him.

Mr. Harrington advised Board members and the Town Manager to contact their own counsel if necessary, and the Board will vote to authorize the Town to pay for these services if warranted. Mr. Harrington is representing the Town and should not receive privileged information from members.

Motion by Mr. Ready, seconded by Mr. Johnson, that the Town will pay for counsel for any member to consult in their position as Board member or the Town Manager on Town-related business dealing with this pending litigation. Roll Call vote was as follows: Mr. Ready-Aye; Mr. Johsnon-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.

At 7:50 pm motion by Mr. Ready, seconded by Mr. Johnson, to adjourn to Open Session. Roll Call vote was as follows: Mr. Ready- Aye; Mr. Johnson-Aye; Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Tuesday, March 19, 1991 at 7:00 p.m. for the purpose of discussing pending litigation. Members present were: Ms. Towle, Mr. Emerson and Mr. Blomgren. Mr. Ready and Mr. Johnson were out of town. Judith Carter and Town Counsel James Harrington were also present.

Ms. Towle said that the reason for the meeting is to have Town Counsel update the Board on the investigation into the alleged misuse of Town funds. Atty. Harrington said that the FBI has all the records that were subpoenaed except for some of the bank statements, but we are providing duplicates. Under the Freedom of Information Request he has been asked for records by the Lowell Sun, Boston Globe and Herald, Chelmsford Independent and Rose Sergi. The U. S. Attorney said it was all right to release these records. They considered time spent copying by the Accounting Dept. and a charge of 20 cents per page, so that the charge for each request was $160.00.
Mr. Blomgren asked if the Board should be concerned about the newpaper articles - should we take some form of action or let the investigation continue.
Mr. Harrington said that there should be no more expenditures out of the HUD fund until he has approved it, that the account(grant) was apparently closed by the State and will be turned over to the Town to do what they want with the remaining funds, but in the meantime don't spend any more money from that account. He has gone over all the invoices looking for anything that looked illegal or for personal use. Jeanne Hamel (intern in the Town Manager's office) was paid over $600.00 and we should make sure we gave her a 1099 Form. There is no indication that the Manager bought furniture for his home.
Mr. Harrington continued that there were several expenses that were inappropirately taken from that account. He said it is an illegal expenditure of federal funds, since HUD was funded by the Federal government and supervised by the state, but that to prove a crime you have to show that there was criminal intent.
Mr. Blomgren asked if the Board should dismiss Bernard Lynch, or suspend him without pay until the investigation is complete. Mr. Harrington said No, that the Board is taking the appropriate action at this point by putting a tighter control on Selectmen's Office receipts and allowing no further expenditures from the HUD account without his approval. He has looked at the expenditures and sending one Federal Express package is not grounds for suspension at this point and there has been no expenditure of funds for personal use. There were some credit card payments from the HUD account: an end of year Department Head meeting at the Radisson, a convention at the Cape, memberships in various

organizations that were Town related, software (assumed for Town use), several(two) Boston parking fees, postage for the BOS office, funds to get the recycling program going.
Mr. Blomgren asked what the Town Accountant has for responsibility to get expenses in the right account. Mr. Emerson said he always felt it was safe to sign warrants when former Town Accountant Ernie Day had signed them. Prior to Sept. 9, 1989 all warrants had to be signed by 3 BOS members; now all are signed by the Town Manager. Mr. Harrington said he feels that Bernie Lynch and the Town Accountant work together on vouchers and warrants - that it is not up to the BOS to determine the proper accounts, that it is up to the Town Accountant, and they should be able to rely on him/her. The AA will provide a copy of the Accountant's job description to each Board member.

Mr. Emerson said he wants to talk about Town Counsel - there is concern on his part because he is hearing it outside that Town Counsel has a potential conflict of interest in this matter, that he used to be Jim McBride's lawyer and that he also has represented Lampligher Green developers. Mr. Blomgren said he had heard that Mr. Harringon had represented a Sergi - either Rose or her brother Nat.
Ms. Towle said she has asked for an accounting of the funds that the Town has used to defend the Town against Nat Sergi and that she had asked Attorney Harrington to get back to her with the number of hours he has spent on those cases. She knows that he definitely represented Nat Sergi, and as a paralegal she can see a potential conflict of interest.
Mr. Harrington said that Nat Sergi had refinanced a building on Westford Street 5 - 6 years ago and he had represnted the bank. Mr. Sergi had asked Mr. Harrington to represent him in all his legal work but when Mr. Harrington went over the cases he felt that there would be conflict and told him No. Ms. Towle asked why he had not told her that prior to tonight's meeting.
Mr. Emerson asked when Mr. Harrington had represented Mr. McBride and he said for the past 2 - 3 years.
Mr. Blomgren said that due to the fact that Mr. Harrington has represented the Sergis and Lamplighter Green that he be asked to step down on this case and recommend other counsel to the Board.
Mr. Emersons said that two things bother him: Public opinion that he is hearing a lot about his office and potential conflict of interest; and 2. the fact that he still represents Jim McBride means a conflict of interest.
Mr. Harrington said that since last week he has had to get involved with Mr. McBride on a matter, but he won't voluntarily step down at this point because he doesn't feel he as a conflict of interest.

Mr. Blomgren said that the Town Manager's counsel is concerned about Mr. Harrington's representing the Town. Mr. Harrington said that he has been asked to work with Department Heads to furnish documents. Mr. Blomgren said that we asked him about conflicts at their last meeting, and asked if he represented Mr. McBride. Mr. Harrington said he will go to the Ethics Commission regarding a conflict, that he doesn't want to get battered in the press, that this issue is very sensitive politically.
Mr. Emerson said he would agree to postpone any decision until the meeting on March 26th when the full Board is expected to be present. Mr. Harrington said that his allegiances lie with the Town and the Board of Selectmen. Mr. Emerson said that the Lowell Sun is looking at this issue and that it is not being leaked from the Board.
Mr. Blomgren said that by Sunday something will have broken (in the media) since they seem to do this on either Thursday or Sunday. He said the easiest thing would be for Mr. Harrington to withdraw from this issue and get a ruling form the Ethics Commission. Mr. Harringon asked on what basis and Ms. Towle said a combination - Mr. McBride, Lamplighter Green and Nat Sergi.
Mr. Harrington said he does not want to bring out the Sergi connection, that he didn't want to be associated with him. He broke that connection, but said that he does have a conflict of interest with Telamos (Lamplighter Green). He will get a letter to the Board withdrawing from this case and will recommend 3 or 4 counsels to Ms. Towle.

At 7:54 pm motion by Mr. Emerson, seconded by Mr. Blomgren, to adjourn this session. Roll Call vote was as follows: Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.

At this point Mr. Blomgren said that we found that part of the meeting wasn't taped, and the Board feels it was a key thing to tape the discussion since we need a detailed explanation.

Ms. Towle briefly outlined what we did about the present Town Counsel possible conflict of interest in teh current FBI investigation matter.
Motion by Mr. Emerson, seconded by Mr. Blomgren, to seek alternative counsel to represent the Town of Chelmsford in this matter. Attorney Harrington will get back to us with ther names of other counsel to represent the Town of Chelmsford in this case.
Roll Call vote was as follows: Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle-Aye.
Mr. Blomgren added that Mr. Harrington has indicated to us that he will remove himself from this case.

At 8:10 pm the Board met in Executive Session to discuss the reputation of an individual. Town Manager Bernard Lynch, his attorney Michael Collora and Judith Carter, Adm. Asst. joined Selectmen Towle, Emerson and Blomgren.
Chairman Towle said that the purpose of the session is to ask Mr. Lynch to clear up some matters relating to the investigation. He can ask questions of the Board and they will ask questions of him. Mr. Lynch said that his counsel will update the Board on the matter and then he will go over the details.
Attorney Collora gave his background, stating that he was in the U. S. Attorney's office from 1973 to 1981. He is now in the firm of Dwyer, Collora and Gertner, and 1 or 2 years ago he represented some Town employees in a federal grand jury investigation, with no indictment. Mr. Lynch has asked Mr. Collora to represent him in this current investigation. Attorney Collora said that these allegations are not stemming from the federal government but here in Town. He has spoken with Richard Gantz, the Assistant U. S. Attorney, who told him the statute that they're using and the allegations: 1. the use of petty cash and 2. use of the HUD account. It is always a crime to take federal money but a 1984 statute broadened their powers: in any Town that receives more than $10,000 in federal monies the FBI can come in and investigate if they are told that a Town employee has taken more than $5,000. They have no evidence to make these charges at this point.
He continued that in 1982 HUD money was granted to the Town to give out or loan funds to homeowners who qualified in Chelmsford and Tyngsboro. The contract was with the State and the Town, and the Town would use the money paid back for certain purposes. The money went from the federal government to the state to the Town to the resident for home improvement, and was paid back into a Town account, when it was no longer federal money.
There was no misuse of money in a criminal sense, that the repair of the roof on the 1802 Schoolhouse was allowable, a computer for the Town Manager's office is allowable, depending on use, and perhaps a portion should be allocated and an American Express bill for a department head luncheon is not allowable, but the solution is for the Town to pay the $200+ back to the HUD account. He added that the federal government will agree that this is simply a civil matter, not a crime. They are focused on individuals who embezzle more than $5,000 from federal funds.
Of the accounts subpoenaed, in the petty cash account virtually everything is accounted for. Atty. Collora said that an investigation may last from one to six months, but based on his experience with the office a report should come fairly soon. The American Express card is not a part of their investigation. He told the Board that a Grand Jury is used to obtain records

through subpoenas, and he doesn't think this matter will go beyond an initial review. He added that the Petty Cash (recycling money) will not interest them, that app. 200 bins were sold or given out.
Mr. Lynch explained the bins - that in 1989 the excess bins were left at Town Hall after one bin was given to each household in Town, and Vining Disposal delivered many of these excess bins. Ms. Towle said she remembers many reasons for giving out bins bins stolen, never received, not left at the house when new owners moved in, etc. Mr. Lynch said that Vining Disposal left us with 150 - 200 bins, that we maybe sold a third of them but in the beginning gave out most of the bins and then tried to change our policy but the bins were all gone by January, 1990. The cash sent down to the Acounting Dept. was about $50.00, we now have app. $250.00 and $100 in receipts in our petty cash box. In all we have about $400, which represents the number of bins sold.
Motion by Mr. Blomgren, seconded by Mr. Emerson, that the Board will not approve reimbursement for lunches, parties, etc. and establish an imprest account not to exceed $100.00, with receipts to be kept and anything over $100 to be chased in. To be voted in open session.
Mr. Blomgren asked what was the rationale for subpoeanaing the recycling records and Atty. Collora said that any Town employee allegedly taking monies more than $5,000 in a Town receiving over $10,000 in federal funds has to be investigated. It does not apply to salaries or expenses or reimbursements during the usual course of business. Any misallocation from the wrong account is a civil matter if the state challenges it. Mr. Lynch said that usually costs are debated between the grantor and the grantee and it should be up to the State to look into something if they doubt it - we should wait for the State.
Mr. Blomgren asked why they looked into HUD and Atty. Collora said that they treat HUD as federal money still - we don't know what the allegation was. Mr. Blomgren asked if legal fees came out of the wrong account, and Mr. Lynch explained that between Jan. 1988 and August 1989 the Town reveiwed 4 different housing proposals and used HUD money for advertising, various studies and Attorney Tom Arnold as special counsel for land use. After the Board of Appeals decision denying the Lamplighter Green permit we basically stopped paying from that account but did allocate to that account according to what state monies were available.
Mr. Blomgren asked about the licensing fees account and Mr Collora said that occasionally we receive cash for fees and permits. Ms. Towle asked if anyone can make allegations and Atty. Collurs said basically Yes, and when the federal U. S. Attorney's office is notified, they may send agents out to investigate. He added that out of all allegations received, maybe 20% end up as serious matters.

Mr. Lynch said we now have a good system of keeping track of recycling bins, and that trash tags have never been a problem since a system was set up in the beginning. Our petty cash is high at this point but he wanted it clearly there for the investigation. The American Express card was given up in June, 1990 and there was no misuse of it. People may not agree with the use of it for luncheon meetings, but they were always either with Board members or large Department meetings. He said that there will be stories in the newspaper tomorrow saying that recycling bin money is not all accounted for, and that Jim McBride and Rose Sergi are running a campaign against him as Town Manager. They are also talking about credit cards and the purchase of condos by Planning Board members.
Ms. Towle said that she had asked to have her telephone credit card calls put in her mailbox so she could pay them directly, and that she has cut up and sent back her credit card.
Mr. Lynch said that he knows of no more surprises that they might try and that there are no longer any credit card holders.
Atty. Collora concluded that he hopes not to have to come back to the Board, and hopes that this matter will die a natural death.

At 8:55 p.m. motion to adjourn to Open Session by Mr. Emerson, seconded byMr. Blomgren. Roll Call vote was as follows: Mr. Emerson-Aye; Mr. Blomgren-Aye; Ms. Towle- Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, April 22, 1991 at 10:05 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Johnson read a letter from Labor Counsel Dee Moschos regarding health insurance provided at no cost to the Town Manager. The Board had voted last July to pay 100% of his premiums and Atty. Moschos wrote that this is perfectly legal under CH 279 of the Acts of 1982. The unions have claimed that under CH 32B, Sec. 7A if Mr. Lynch is given 100% coverage it must be offered to all Town employees. Atty. Moschos has ruled that CH 279 is superior to any general law.

It was agreed that a copy of the union's request and a copy of Atty. Moschos' opinion will be sent to him asking him to draft a response from the Board to the unions, and also point out to him the methodology of paying the insurance premium - that the Town pays it directly, and Mr. Lynch is not reimbursed. The Chairman will notify the unions that we have taken their request under advisement and will get back to them within 10 -12 business days.

At 10:15 p.m. motion by Mr Logan, seconded by Mr. DeFreitas, to adjourn. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, May 22, 1991 at 10:50 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Adminstrative Assistant Judith Carter and Town Counsel James Harrington were also present.

Attorney Harrington said the purpose of the session is to go over pending cases for the two new members of the Board.

1. **Conservation Commission vs. Beverly Keenan:** has been ongoing for 3 - 4 years. Ms. Keenan lives on Spaulding Road and blocks up a stream flowing onto her neighbor's property. He warned Mr. Logan and Mr. DeFreitas that she is liable to call them.
2. **West Coast Video** - Historic District Commission controls all external lights in the District and their lights are illegal - case was tried on January 3rd and decision should be out this week.
3. **North Chelmsford Auto Parts** - they have a temporary Class III Auto Dealer's license for a junkyard. They have environmental problems and are reporting to the Conservation Commission.
4. **Evelyn Donovan** - pressed charges when Constable Bill Spence and a Water Dept. employee entered her house.
5. **Charles George Landfill** - we are being sued along with other communities. Since we have had the same insurance since 1967, even though the policy says "excluding pollution" Cigna is paying for our legal defense. Over $93,000 has been paid to Koppelman and Paige during the past year. We are going for a Summary Judgement in June - if we can get it, we will be in good shape, if not, it could cost $2 million+ to the Town. Mr. Lynch commented that the Super Fund Law doesn't cover municipalities.
6. **Westford Street Landfill** - we've hired McGregor, Shea and Dolimer. They have found there was a Consent Agreement between Lowell and the EPA that is not being followed. Mr. Johnson said that Herscott is looking into the matter privately, let him fight our battles. Mr. Lynch said we have spent about $1500 out of the $2500 allocated. Motion by Mr. Logan, seconded by Mr. DeFreitas, to not spend more than $2500.00 on this matter. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

Mr. Logan said that Edgar Shaw, Hall Road said the Conservation Commission is suing him for backfilling and he said the Town did it. Mr. Lynch will check into the matter.

Mr. Blomgren asked that we check on replacing the mailbox on Kimberly Court.

At 11:05 pm motion by Mr. Logan, seconded by Mr. De Freitas, to adjourn. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, June 17, 1991 at 9:40 p.m. to discuss collective bargaining. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Ready said he has asked Mr. Lynch how to get away from the Town paying 100% of his health insurance, as has been done during FY91. Mr. Lynch said he would give up the 100% paid premium in exchange for a time extension of his contract and conversion of the reimbursement to salary. He has also said he will give back 5% of his salary this year. His FY92 salary would be FY91's $66,500 plus the health insurance reimbursement conversion or $69,140, of which he would give back 5% for FY92. The annual salary through December 31, 1994 would be the current year's salary plus merit increases, if there is money available. Also effective FY93 he is asking for 6 months severance pay.

Mr. Johnson said he wants to get rid of the health insurance issue to quiet the unions, who are protesting the 100%. It will also give Mr. Lynch more strength to negotiate with the unions if he is in a longer contract.
Motion by Mr. Johnson, seconded by Mr. Logan for discussion, to accept the proposal as presented by Mr. Lynch. Mr. DeFreitas commented that it still would take a 4 to 1 vote to get rid of him, and Mr. Ready said that the difference in severance pay is from 3 months to 6 months.

The Charter requirement that the Town Manager move to Town was discussed, and Mr. DeFreitas said we are sweeping the issue under the rug and wants to vote a waiver in Open Session.

Vote on Mr. Johnson's motion to accept Mr. Lynch's proposal was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

Motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, July 15, 1991 at 10:15 pm. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Lynch said that the Town has been watching the progress in the Lowell Landfill matter and we have received notice from McGregor, Shea and Doliner that several residents of Lowell and Chelmsford have notified the City of Lowell that they intend to sue. Mr. Ready noted the letter from Town Counsel Harrington reviewing the McGregor, Shea and Doliner letter. He is recommending that we ask them to continue to monitor the project and aid the citizens group concerned with leachate, odors, rodents, methane gas, etc. and give them any information we might have. Attorney Harrington said their estimated cost for this project is $2500 - $3000 to monitor it and work with the citizens group.
Mr. Blomgren asked why don't we sue Lowell ourselves and was told that the expense would be too great.
Motion by Mr. Johnson, seconded by Mr. DeFreitas, to follow Town Counsel's advice and ask McGregor, Shea and Doliner to continue to provide legal services in the matter. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

At 10:25 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith C. Carter

Executive Session of the Board of Selectmen held Thursday, August 22, 1991 to discuss pending litigation. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Administrative Assistant Judith Carter, Town Counsel James Harrington and Labor Counsel Demitrios Moschos were also present.

Mr. Ready asked Counsel to go over the letters received from S. James Boumil, attorney for Milton and Beth Kinney and advise the Board what they should and shouldn't do.

Attorney Harrington said there are two separate issues involved here: Mike Kinney's employment grievance and Beth Kinney's charge of long term sexual harassment. He said he has talked with Atty. Boumil and they are two separate issues that should be handled separately.
Mr. Ready asked for the ground rules and Mr. Harrington said the employment issue should be discussed in Open Session and the sexual harassment charge in Executive Session since it involves privacy of individuals and proper notice must be given to those involved. Atty. Moschos added that if there was wrong doing on the part of the Town Manager on the employment issue it should be Executive Session, but this is up to the Board to decide - Mr. Lynch took his advice under Chapter 268A.

Mr. Lynch commented that in the first letter the two issues were not separate and Mr. Moschos told Mr. Johnson that it is not legal not to use last names in the Affidavit.

Mr. Harrington explained the process: if the character or reputation of an individual is being discussed in Executive Session the person must receive 48 hours notice, with counsel if wanted, and be given the choice of open or executive session. He added that both attorneys have given legal opinons advising the Board not to have a Public Hearing as requested, that it is not legal under the Charter. They may have the right to hear other allegations but the Town Manager has the right of jurisdiction over administering the Town. Mr. Moschos told the various ways for a Town employee to appeal and Mr. Harrington said that the Personnel Board has rules and regulations for a grievance. Mr. Harrington said that the Board should review the letters from him and Atty. Moschos and then release the letters to Mr. Kinney and his attorney.
Mr. Ready asked if the Board can legally hold the hearing requested by Mr. Kinney and Atty. Moschos said No.

Motion by Mr. Logan, seconded by Mr. DeFreitas, to separate the two issues with the understanding that at the August 26 meeting we will read the letters from our counsels, and state that under the provisons of the Charter we are acting correctly and feel that Mr. Lynch did not act discretionally, and also ask Town Counsel to be present at this meeting. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

Mr. Ready then asked Mr. Harrington what to do with the second issue, the charge of long term sexual harassment brought by Beth Kinney against Mr. Lynch.
Mr. Harrington said that under the Open Meeting Law if the character or reputation of an individual is going to be discussed in Executive Session the person must be notified 48 hours in advance, be given the right to have counsel present and decide whether he wants Open or Executive Session. The Board therefore cannot discuss any details of the charges tonight. He already has questions as to whether the statute of limitations has run out for filing these charges.
Mr. Harrington further said that when there are allegations of sexual harassment the Board has to do an investigation to see if the allegations are plausible. They should interview the current and prior staff members and as quickly as possible.
Mr. Moschos said that we must have a preliminary investigation to determine if a full investigation should be held. If there is no indication that the allegations are true the Board can decide not to proceed. Mr. Blomgren said that he prefers we not involve any more people than necessary.
Mr. Harrington said he has informed Atty. Boumil that he is meeting with the Board tonight. He said that sexual harassment has to be unwanted, and we have to determine that there is nothing else going on. Those to be interviewed will include the persons working in the Town Manager's, Selectmen's and Trash Departments, former employees who worked during Mrs. Kinney's employment and Chairmen of the Board of Selectmen during her term of employment. That will complete the preliminary investigation, which will be reported back to the Board in Executive Session because of pending litigation and discussing the character of a specific individual.

Mr. Harrington told the Board that any press inquiries should be referred to him. Mr. Blomgren asked if the Town Manager is present when the others are being questioned and Mr. Harrington said he may be, with counsel if he wants. Atty. Moschos said that an attorney should conduct the investigation, and discussion was held as to whether or not Atty. Harrington would be viewed as being impartial.
Motion by Mr. Johnson, seconded by Mr. Logan to authorize Town Counsel to appoint Atty. Philip Nymnan as Assistant Town Counsel to conduct the preliminary inquiries and report the results of those findings to the Board with dispatch. Atty. Harrington said he will tell Atty. Boumil that this is being done and Atty. Moschos said that under Chapter 258 the Board has 6 months to respond. Roll Call vote on the motion was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

Atty. Harrington said that he has Freedom of Information requests asking for the Affidavit and claims letter of August 16 and said he needs to determine if they are an invasion of privacy rights and he will advise the Town Clerk of this. It is a question of does the public's need to know exceed a person's right to privacy. He feel we will be successful on keeping the Affidavit from them but the letter may have to be released. He added that we have no control over the other side, although Atty. Boumil claims that he does not want the Affidavit released.

Atty. Harrington then addressed the subject of insurance and are we insured for this claim against the Town. He is referring it to every insurance carrier that we have. The most applicable policy would be the Public Officials policies, but we may have problems collecting because the new policy has many exclusions. He will have a determination by Monday night, and there will probably be a $13,000 cost to the Town.
Atty. Moschos recommended that the Board deal with the central charges first and then they could pursue the other charges if this preliminary investigation shows anything. He suggested that they don't complicate the investigation, and delay questioning the Town Manager until after the preliminary investigation.

Mr. Harrington warned everyone present that this matter is extremely confidential, and he will get back to the Board Monday night.

Motion by Mr. DeFreitas, seconded by Mr. Blomgren, that all copies of the Affidavit be left with Attorney Harrington. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

At 8:50 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to go out of Executive Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, August 26, 1991 at 7:35 p.m. Members present were: Mr. Ready, Mr. Logan, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Bernard Lynch, Town Manager, Judith Carter, Administrative Asst. and Town Counsel James Harrington were also present.

Mr. Harrington said that he has received requests from the Lowell Sun and Boston Globe under the Freedom of Information Act on the Kinney matters. The letters of August 6 and August 19 from Attorney Boumil can be released. The Public Records Act allows us to withhold personal privacy matters so we can withhold the cover letter and the Affidavit. He added that the proper strategy for the Board is not to say anything unless asked by the press and then refer them to Town Counsel.

On the question of insurance National Casualty has a 60 day automatic extension so since the claim came in within 60 days it can be reported. He will make claim under this policy.

Mr. Blomgren had drafted a motion for Open Session on how the Board is dealing with the charges filed by Mike Kinney. Mr. Harrington checked the draft over, and Mr. Logan added a second part to it. It was agreed that Mr. Blomgren would make the motion, combining both his and Mr. Logan's drafts.

At 7:50 pm motion by Mr. Logan, seconded by Mr. DeFreitas, to adjourn to Open Session. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen re pending litigation held Monday, September 16, 1991 at 7:10 p.m. Members present were: Mr. Ready, Mr. Loganm, Mr. DeFreitas, Mr. Johnson and Mr. Blomgren. Town Manager Bernard Lynch, Town Counsel James Harrington and Administrative Assistant Judith Carter were also present.

Mr. Ready read a letter from himself to Atty. Boumil dated September 7 re the Auxiliary Police appointment of Mike Kinnehy, and a letter from Mr. Boumil to him, dated September 6, re having Mr. Lynch and Mrs. Kinney take polygraph tests. The letter stated that this is a civil matter, that these tests are used often when performed by the FBI and State Police and he is asking the Board to investigate the matter.
Mr. Harrington referenced Mr. Boumil's letter of September 3, re the Boston Globe and Mr. Lynch, in which Mr. Boumil stated that Beth Kinney is forced to respond to Mr. Lynch's comments, that he wants to develop questions relative to sexual harrassment, the hostile work environment and other matters mentioned in her affidavit. Mrs. Kinney will submit to the test if Mr. Lynch will because she wants the truth to come out.
Mr. Ready said that Atty. Boumil had faxed that letter to the newspapers, and he wants a folder started for this matter where each BOS member can read each letter and sign off.
Mr. Ready said that Atty. Boumil has sent 2 letters requiring a response. He referenced a letter from Dee Moschos reviewing Mr. Boumil's letter of September 3 re polygraph tests in which he stated that employers can't require employees to take the tests under Sec. 19B.
Mr. Ready said his first reaction is to send back a detailed letter but Atty. Harrington said he has talked to Tom Sweeney, the City Solicitor in Lowell, that he has been dealing with a problem with Mr. Boumil and the proposed Veterans Clinic in Lowell and he only sends back more detailed letters. It would be better to respond to the facts and cut out the rhetoric.
Mr. Johnson said that Mr. Ready should send back a short letter stating that under the advice of Counsel the Board cannot require a polygraph test. Mr. Ready said that our response to the September 3 letter should be public, referencing Sec. 19B, under the advice of Counsel. Mr. Harrington commented that the usual procedure in litigation is don't release anything unless asked.
Motion by Mr. Blomgren, seconded by Mr. Johnson to send these letters. Roll Call vote was as follows: Mr. Logan-Aye; Mr. DeFreitas-Aye; Mr. Johnson-Aye; Mr. Blomgren-Aye; Mr. Ready-Aye.
Mr. Harrington also recommended that it be included in the letter that a letter written to the Chairman is a letter to the whole Board and a matter of public record; if he wants confidentiality please send it to Counsel.

Executive Session of the Board of Selectmen held Monday, December 21, 1992 at 10:50 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Bernard F. Lynch, Town Manager, and Judith E. Carter, Adminstrative Assistant were also present.

Mr. Lynch brought the Board up to date on the Clerical Union negotiations: extended hours on Mondays from 5 to 7 pm in the Clerk's, Collector's and Assesors' offices; longevity - same as the other contracts; Holidays - eliminate 1/2 days before Thanksgiving and Good Friday and add a full holiday the day after Thanksgiving; Sick leave buy-back - frozen at 6/30/93 for up to 135 days and only upon retirement or death. Employees will be eligible for up to 3-days compensation pay if sick time is not used during the year. All changes are consistent with the Fire contract. Added is an unpaid leave of absence for personal reasons up to 30 days, minor changes in job posting and bidding and RIF language. There is a $500 benefit buyback (signing bonus) and a 3 year contract, with 0% the first year, 3% year 2 and 4% year 3.
He noted that Highway and Cemetery contracts eliminated longevity completely, and that all contracts now run through June 30, 1993.

Motion by Mr. DeFreitas, seconded by Mr. Lawlor, to accept the report on Collective Bargaining. Mr. Lynch won't comment on the clerical contract until the union has voted. Roll Call vote on the motion was as follows: RDeF-Aye; PVL=-Aye; JAB-Aye; RAB-Aye; WRL-Aye.

Mr. Lynch then told the Board that he has found a house in Town but has run into a problem with the buyer of his house in Andover. He is on line with the Robin Hill Road house, has a mortgate contingency until January 15th, and will pass on Jan. 28th. He will keep the Board informed on the progress of the move.

At 11:15 p.m. motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn. Roll Call vote was as follows: RDeF-Aye; PVL-Aye; JAB-Aye; RAB-Aye; WRL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, February 8, 1993 at 10:10 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Mr. Logan said that 3 weeks ago the Board met with Town Counsel James Harrington and that Mr. Brem and Mr. Blomgren can contact him re **pending litigation** since they were not present. Mr. Lynch also has a copy of the report.

Re the **Town Manager's salary**, the Board had voted on October 26, 1992 to increase his salary by 5%, increase his vehicle allowance to $300 per month and take out a disability policy for $2300 per year. Motion by Mr. DeFreitas, seconded by Mr. Lawlor, to implement the action taken at the Oct. 26 meeting, retroactive to July 1, 1992.

Mr. Lynch reported on **two labor relations matters.**
He said that the **Police Mediation** Session was a good session, that the mediator was pleased that we've taken away some benefits but put money behind new items. The Town will do well if we go to arbitration, and the mediator is pleased that all the other unions have settled.
On our **first contract with the Library** we're bargaining with the Chelmsford Federation of Teachers. They have a very weak management rights clause, but we want strong rights. We have reached an impasse and will call in a mediator.

On the subject of **real property**, the Library Trustees want to purchase the "Pink House" (Tevlin Property). They want to keep the Library in the Center and this would give them 3 adjoining properties. They need 2 appraisals and Town Meeting action to purchase the property. They will fund the purchase by postponing any architectural studies for a new library, $40,000 from their endowment fund and funds from the sale of the Tate painting - app. $200,000. The Tate painting is to be auctioned off in December, and needs a Town Meeting vote.

At 10:35 p.m. motion by Mr. DeFreitas, seconded by Mr. Lawlor, to adjourn. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem- Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, March 8, 1993 at 6:30 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter, Finance Director Fred Mansfield and Town Accountant Bernie Meyler were also present. The reason for the Executive Session was to review the performance of an employee.

Mr. Logan said that when we met in November several issues, both current and outstanding, were discussed and he asked where are we now in terms of target dates. Mr. Lynch said that we could hold this discussion under collective bargaining re the performance of the Town Accountdant, but that the update on the Town Accountant's office could be done in Open Session. Mr. Logan said he gave the Board a memo in November saying that we would meet in March to discuss the Accountant's performance.

At 6:40 pm motion by Mr. DeFreitas, seconded by Mr. Lawlor, to go out of Executive Session. Vote on the motion was 4 in favor, 1 opposed (WRL).

Discussion continued in Open Session. Mr. Mansfield said that the books were closed in November, and Schedule A completed and forwarded to the Dept. of Revenue. They now perform reconciliations with the Treasurer and all departments. Mr. Meyler said that monthly reports are now going out within 10 business days after the end of the month and there has been no major feedback. He added that things are going smoothly and people are a lot happier.
Mr. Lawlor asked about the personnel, and Mr. Meyler said that he has two new people. Mr. Mansfield said that when the Assistant Accountant retires there will be changes and they will search the area for a qualified assistant. Mr. Mansfield said his two new employees are both top notch and Mr. Meyler said they work with minimal supervision so he can do bigger things. If his assistant and the Senior Clerk both take Early Retirement he will hire just one person, with their new software system doing so much.
Mr. Mansfield said there have been major changes - they have eliminated the old voucher system and now file by vendor, which is handy for dept. heads, and Mr. Meyler said they have eliminated 4 steps in telling if a bill was paid. There can still be duplicate payments, but the new system will change this.
Mr. Mansfield said we are down to 2 bidders for the software program and will decide by the end of the week. There will be one vendor, not several.
Mr. Brem asked Mr. Meyler if he can perform audits within the re-structuring, and he said Yes, that he still reports to Mr. Mansfield, Mr. Lynch and the Board. There is a loop between the 3 of them, and no surprises. He is more freed up to do audits and said the staff is seeing good results from the change.

Mr. Lawlor asked about the new educational reform and is he up to date with the School Dept. Mr. Meyler said not exactly and Mr. Lawlor said he will have to find new monies for them and keep on top of their bargaining. Mr. Meyler said that they are constantly shifting and allocating funds and he is concerned that they are staying within grants. Mr. Brem and Mr. Blomgren asked him to document his recommendations to them, since we will have to prove that we are spending more money on the schools, and Mr. Meyler said that they seem to be surviving on their revolving accounts.
Mr. Lynch said that waste collection, health insurance, general liability, snowplowing and administrative costs all will have to be charged to school accounts. Mr. Mansfield said the auditors check their grants every year and will convey to them formally if they aren't in compliance.
Mr. Meyler concluded that staff morale is higher, they all want to see the new computer system in place and are more aggressive. New tools make the work more enjoyable and he feels more at ease. Deadlines are being met and everything is very positive.
Mr. Lynch agreed that things have really improved in the Accounting Department.

Motion by Mr. DeFreitas, seconded by Mr. Lawlor, unan. to adjourn to the regular meeting at 7:05 p.m.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, March 22, 1993 at 6:50 p.m. to discuss **collective bargaining and pending litigation. Members present** were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Mr. Lynch discussed the **Police Dept. Superior Officers proposed contract**, noting that they are sergeants who have split off from the patrol officers and thought they could do better bargianing alone. He noted that a Civil Service exam is needed for promotion to sergeant and not many patrolmen are taking it. We are proposing a 3-year contract with the officers, they will receive a $1,000 stipend replacing longevity and salary raise to $41,000. Longevity will be eliminated in its entirety and sick leave buy-back will be capped off at July 1, 1992. New employees will receive 5 days vacation, not 7 and there is a one time benefit payment of $750.00.
The mediator is impressed with the money that the Town will spend to settle this contract and the issue is now "manning language". Salary increases of 4% are agreed for years 2 and 3 of the contract. The additional cost this year will be $15 - 16,000. Two of the present captains may want early retirement and we want to change from 3 captains to one. The sergeants would become shift commanders. There is now less than 15% differential between the sergeants and the highest paid patrolman, and we want to encourage competition to become sergeants. If there is a detail of more than 3 patrolmen, a sergeant will be put on at time and a half. This is done mostly by utility companies.
The educational incentive is now $2,000 for an Associate Degree; after July 1, 1992 this will change to $750 for an Associate and $2500 for a Bachelor's degree.

Mr. Lynch's case was discusseed and the Board agreed they won't talk to the press and Mr. Lawlor said that Mr. Lynch shouldn't discuss privileged information with the Board.

At 7:15 p.m. motion by Mr. DeFreitas, seconded by Mr. Lawlor, to **go out of Executive Session**. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr. Lawlor-Aye; Mr. Brem-Aye; Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, April 5, 1993 at 7:55 p.m. Members present were: William R. Logan, Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present, as was Town Counsel James Harrington. The purpose of the session was to discuss pending litigation and collective bargaining.

Mr. Lynch said that on the Erlin Road matter the attorney for Shawmut Bank has contacted him stating that they are disappointed in the Board's action and will wait 2 weeks and then go to Land Court. Atty. Harrington said chances are good for them to get the proprty back, that the petitioner (Town) can ask for it to be vacated or if they petition and we assent, they can get it back.
Motion by Mr. Lawlor, seconded by Mr. Blomgren, to join as petitioners if they will pay all taxes and all our legal fees.
Mr. Logan said that the Traffic and Safety Committee has been dealing with Shawmut Bank on the Central Square parking lot but the deal was made when it was still First Bank, and it was never a part of First's deed to Shawmnut.
Mr. Harrington said that under Chapter 60, Sec. 69A by statute they have up to one year to go to Land Court, but after one year only the Town can go in and ask to have the land vacated. The property in question is 1.85 acres, with much of it Wetlands.
Vote on Mr. Lawlor's motion was 2 in favor (PVL and RAB), 3 opposed (WRL, RDeF, JAB).
After further discussion Mr. Harrington told the Board that the best fiscal management is for him to represent the Town and he will let Shawmut's attorneys know that the Town will be fair if they're fair with us on the parking issue. Mr. Harrington said he could contact Mr. Chapell's office and tell him what we want to do and that we want the same type of easement on the bank's parking lot, with parking. Mr. Harrington will come back to the Board's April 20th meeting.

Mr. Lynch then told the Board that we have a tentative agreement with the Police Dept. Superior Officers. He said that the issues when they started were to get rid of longevity and sick time buy-back.
The contract gives the sergeants more management responsibility and the captains' rank will be eliminated over time, and Mr. Lynch said that the differerntial now betweeen sergeants and patrolmen is not very substantial. Now a sergeant is making app. $37,00 and a patrolman at maximum longevity is getting app. $34,000. Only two people took the last sergeant's exam. If we eliminate the captain's rank we save app. $10,000 per man, and there are now 8 sergeants but we will need 10.
After discussion motion by Mr. Lawlor, seconded by Mr. DeFreitas, unan. to accept and endorse the Town Manager's recommendations.

Mr. Lynch said that there is a possibble restructuring in the Public Safety Department, as that the Fire Chief may take early retirement. He has been a good chief for six years and there may be great opportunities in filling this position.

At 8:50 p.m. motion by Mr. DeFreitas, seconded by Mr. Lawlor, to go out of Executive Session. Roll Call vote was as follows: Mr. DeFreitas-Aye; Mr Lawlor-Aye; Mr. Brem-Aye Mr. Blomgren-Aye; Mr. Logan-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Tuesday, April 20, 1993 at 6:35 p.m. to discuss potential litigation. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Harrington updated the Board on the matter of Shawmut Bank and the Erlin Road property. He had talked with Attorney Chappell and has called Shawmut, speaking with Judy Adams Clarke. He is suggesting an agreement from them, that they contact him when they hear from their liability carrier, and that they entertain a proposal from the Town to lease a portion of their parking lot in Central Square. He said that no liability carrier will take any more risks than necessary and he will show them how the Town's insurance policies can cover. Mr. Logan commented that since November the bank has been saying that they have to get an answer form their insurance company.
Mr. Harrington said he wants to point out that Erlin Road and Central Square parking are not tied together. Attorney Chappell is special counsel for the bank and only does closings, etc. We would be on shaky ground trying to join the two issues and he sees no need for Atty. Chappell to come back before the Board. The Board agreed that redemption of the property will happen anyway and the two issues should not be linked.
Mr. Harrington recommended that we not oppose the Land Court ruling and he will try to open a dialogue with Shawmut. He would rather positively go after parking than to oppose them in Land Court and Mr. Lynch added that we want a license agreement, not a lease.
Motion by Mr. Lawlor, seconded by Mr. Joyce, that the Board authorize Town Counsel to notify Shawmut as to their position on redeeming the property on Erlin Road.
Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Nay; Mr. Logan-Nay; Mr. DeFreitas-Aye. Motion passed on a 3 - 2 vote. Mr. Harrington will have a draft proposal at the next Executive Session.

At 7:00 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn to Open Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, April 29, 1993 at McCarthy School at 7:20 p.m. Members present were: Mr. DeFreitas, Mr. Lawlor, Mr. Joyce and Mr. Logan. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the meeting is for the discussion of purchasing real property.

Mr. Lynch told the Board that the "Pink House" adjacent to the Children's House on Bartlett Street has been appraised for $343,000 and the owners are not interested - they have been told by the Library Trustees that the Town will pay $360,000 for the property and they questioned the appraisal. Mr. Lynch has indicated to Attorney Joseph Shanahan that he will use the $360,000 in his request for appropriation but he will ask for a second appraisal.
Mr. Lawlor asked if the second appraisal comes back at $343,000 what do we do and Mr. Lynch said he would work on that. The assessment is for $240,000 and Mr. Logan said according to that $360,000 is not that far off.
Mr. Lynch said that taking by Eminent Domain is more complicated and Mr. Lawlor said that the taking occurs immediately but the party can challenge the taking price. Mr. DeFreitas asked if we can legally buy higher than the appraisal and Mr. Lynch and Mr. Lawlor both said yes. Mr. Lawlor said that to keep our options open we must disclose $360,000, that we don't have much choice because the library really wants that property.
Motion by Mr. Lawlor, seconded by Mr. Joyce, to authorize Mr. Lynch to go out and negotiate with the sellers' attorney Mr. Shanahan. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye.

At 7:35 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn to Town Meeting. Roll CAll vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, May 10, 1993 at 7:30 p.m. **Members present** were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Logan said he had asked to have the **Town Manager's pending court case put on the agenda,** noting that comments have been made in the press and the Board should speak with one voice on any potential settlement. Mr. DeFreitas said that anything any Board member says can jeopardize our insurance position and all correspondence and comments should come from the Chair and be discussed with the rest of the Board.
Mr. Harrington said that Selectmen should say nothing because the case is still in litigation and it oculd hurt our insurance. He also said that Mr. Brem and Mr. Joyce are welcome to stop by his office anytime to go over all the documents in the case.
Mr. Harrington added that under the 258 claim the Kinneys have until July, 1993 to notify the Town if they are bringing suit against the Town. Terms of a settlement were discussed and also court matters if there is no settlement. Mr. Harrington said that he hopes the parties will settle since it would be damaging to the Town if it goes to trial. Mr. Lawlor asked if the Town is still covered under this insurance and Mr. Harrington said yes, that the premium won't change and he then explained the coverage and companies and policies to Mr. Joyce.
Mr. Lynch told the Board that mediation is going on and the parties are getting closer, and Mr. Harrington said that the insurance adjuster is concerned about the costs of litigation and wants to settle. Mr. DeFreitas said he is concerned about the perception that there is guilt if there is a settlement and Mr. Harrington said we will try to get non-disclosure clauses. He said the Secretary of State agrees with him about not releasing the Affidavit.

Mr. Harrington said that re the **Shawmut Bank parking lot,** please give him another week.

Re the **"Pink House"** Mr. Lynch said that they have extended the offer until 5:00 pm tomorrow. Mr. Lynch told the Board that one of the Library Trustees has said we will pay $360,000 although they have no authority to do so. We've offered $343,000 but they want $360,000. Mr. Lynch has not had the second appraisal done and said that every month Cullen & Cain is still in the building will cost them $6,000. Mr. Bremn asked if the Town can offer them $350,000 and Mr. Lynch said that the $17,000 difference is the principle of the matter, he feels the Town is being taken but he recommends paying the $360,000.
Motion by Mr. Brem, seconded by Mr. Logan for discussion, to pay the $360,000. Mr. Brem then withdrew his motion. Mr. DeFreitas suggested that the Board authorize up to $360,000 and let the Town Manager make his best efforts.

Motion by Mr. Brem, seconded by Mr. Joyce, to authorize the Town Manager to offer $350,000 and go up to $352,000. Mr. Lawlor said he will vote against the motion, that we should give the Manager the latitude to go to $360,000 - let him negotiate.
Vote on Mr. Brem's motion was 3 in favor (JAB, RPJ and WRL), 2 opposed (RDeF and PVL).

Mr. Brem left the meeting at 7:55 p.m.

Mr. Harrington then gave the Board his **opinion on Water District Consolidation**, stating that he was asked do we need the water takers permission to go for special legislation to void out the current acts, and in his opinion the answer is No. The courts say that this was special legislation affecting only one town. A City or Town can't go into the water business unless they buy out the current supplier. Mr. Harrington quoted a 1986 court case on this and said we would need a Town Meeting vote at least 60 days before the Annual Election to put a question on the ballot - should the Town vote to have the BOS as Water Commissioners or to have the BOS appoint Water Commissioners, or a petition signed by at least 10% of the registered voters of the Town. He added that a Special Act of the legilsature is superceded by any general law, and that special legislation is not a true statute unless it covers more than one town.
Mr. DeFreitas asked where are we at and what do we do with the opinion, and Mr. Harrington said the opinion on water consolidation is a public record, that the Water Commissioners have asked for the opinion prior to their meeting with the Board on May 24th and the Board owes it to the Commissioners to show it to them.
Mr. Lynch handed out a Camp Dresser and McKee letter stating the scope of services and the data needed. He has given the whole CDM proposal to the Commissioners and will send them the most recent letter and Town Counsel's opinion by the end of the week.

At 8:35 pm motion by Mr. Lawlor, seconded by Mr. Joyce, to go out of Executive Session and start the Work Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, May 17, 1993 at 6:40 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present. The purpose of the session was to discuss the acquisition of real property and ongoing litigation.

Mr. Lynch updated the Board on the "Pink House", saying that the seller wouldn't accept the offered $352,000 but wants the full $360,000 voted at Town Meeting and he needs a confirmation vote. Motion by Mr. Lawlor, seconded by Mr. Joyce, to authorize the Town Manager to execute a Purchase and Sales agrement in the amount of $360,000. Mr. Lynch commented that they intend to remain in the building after the June 15th closing date and Mr. Lawlor said this should be part of the P and S. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

Mr. Lynch and Town Counsel James Harrington then updated the Board on the sexual harassment claim against Mr. Lynch, saying that the matter went to a mediator and a settlement that resolves the case has been reached. The paperwork has been sent to Attorney Bomil and a statement will be released shortly. There is confidentiality as to the amount of the settlement and the Town is released from any potential suits. Mr. Lawlor has prepared a statement that he wants the Board to support, to be released after the settlement has been announced.
Mr. Harrington warned the Board that they shouldn't do interviews since it is not their settlement, the Town was never brought into the case and it all comes under the public officials insurance policy.
Motion by Mr. Logan, seconded by Mr. Brem, to approve the strategy as outlined. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye.

Mr. Harrington reported on the status of the Shawmut Bank parking lot and said that the insurance company has told Shawmut that they see no increased risk in entering into any agreement with the Town. He said that Judy Adams Clarke has talked to Steve Temple on the Traffic and Safety Committee and said the bank is formulating a lease on the Fiske House and will be signing soon. He will keep the Board informed.

At 7:00 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn to Open Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E Carter

Executive Session of the Board of Selectmen held Monday, May 24, 1993. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present. The purpose of the session was to discuss potential litigation since the Water Commissioners have threatened to sue us and to discuss Executive Session minutes of prior meetings, whether to modify or release them.

Mr. DeFreitas said that re the Kinney suit he has read in the paper that the Finance Director has paid the $5,000 deductible to the insurance company plus legal fees and it is his understanding and recollection that the $5,000 deductible covered everything but the $40.00 per hour to Atty. Collora.
Mr. Harrington then explained the history of the insurance payments, how we were dealing with two companies for a while and told the National Casualty adjuster that we wanted to use prior "reservation of rights". He then went over the sequence of events and said that he indicated that the deductible had already been paid in May, 1992 but we did not receive the bill until March, 1993 and it was paid two weeks ago.
Motion by Mr. Logan, seconded by Mr. Joyce, to ask Mr. Harrington to get together the total bills in the case and put together the numbers as they are available. Mr. DeFreitas said that way we will know the scope and can defend it if we want to. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye. Mr. Harrington will report back to the Board in Executive Session at 6:30 p.m. on June 7th.
Mr. Lynch said that the past week has been tough on everyone and he appreciates all the Board has done.

At 7:00 p.m. motion by Mr. Logan, seconded by Mr. Lawlor, to go out of Executive Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, July 26, 1993 at 11;05 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the Session was to discuss **pending litigation.**

Mr. Logan said there have been complaints, both verbal and written, that a Town employee who has been out on sick leave since June has been seen siding a house and playing golf. The Town Manager said he does not want to see sick time abused.
Motion by Mr. Logan, seconded by Mr. Lawlor, to ask the Town Manager to look into the situation and report back to the Board.
Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

At 11:10 p.m. motion by Mr Lawlor, seconded by Mr. Joyce, to go out of Executive Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, August 23, 1993 at 10:45 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present. The purpose of the meeting was to discuss collective bargaining and pending litigation.

Mr. DeFreitas said he was not happy with the Open Session review of the Town Manager, that we could have been more frank in a closed session. Mr. Brem asked Mr. Lynch what he wants for compensation and noted that all our contracts have been settled for 4% or less. Mr. Lynch gave the Board a salary survey he had done of other towns of our size and demographics and also area towns and he noted that the average TM salary is $76,567 and average vacation 20 days. He is now getting $72,597 and 15 vacation days. He is requesting to get up to average salary, not more than 5%; wants 5 more vacation days; and also wants permission to teach a course at U.Lowell. 3 hours per week. Mr. Lynch told the Board that his contract ends 12/31/94 but his term is indefinite; he gets 6 months severance pay, LTD, $300/mo. car allowance and 60% paid medical insurance.

Mr. Lynch left the room and the Board discussed what type of package to offer him.

Motion by Mr. Brem, seconded by Mr. Lawlor, to offer him a 4% salary increase, no change in vacation days, permission to teach with schedule approved by the BOS, sick time buyback capped as of 7/1/93 and instructions to put a town car for himself in the FY95 budget and eliminate the $300 per month.

Motion by Mr. Joyce, seconded by Mr. DeFreitas, to table the issue for tonight. Vote on the motion was as follows: Mr. Lawlor-No; Mr. Joyce-Aye; Mr. Brem-No; Mr. Logan-No; Mr. DeFreitas-Aye. Motion failed 2 in favor, 3 against.

Vote on Mr. Brem's motion was as follows: Mr. Lawlor-Aye; Mr. Joyce-No; Mr. Brem-Aye; Mr. Logan-Aye; Mr. DeFreitas-Aye. Vote was 4 in favor, 1 opposed. Mr. Joyce asked to have it stated for the record that he is opposed to any increase in salary for the Town Manager this year.

Mr. Logan moved, seconded by Mr. Lawlor to make the vote unanimous. Mr. Joyce said he is opposed to any raise, and Mr. Logan withdrew his motion.

Mr. Lynch came back into the session and the Board told him their decision.

It was decided to discuss pending litigation at the next meeting.

At 12:25 a.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to go out of Executive Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Tuesday, September 7, 1993 at 7:15 p.m. to discuss pending litigation and salary for Town Counsel. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present. The purpose of the session was to discuss pending litigation and compensation for Town Counsel.

Mr. Logan asked about the **Shawmut Bank** and had they decided on the Town's use of the parking lot in Central Square. Mr. Harrington said he has not heard from them yet.
Mr. Logan said he received a Mailgram from **Charles Jeter, Southgate Road,** who said the Town put in a **drainage easement** in 1982 and no one has ever cleaned it out. He asked to hear from Town Counsel but the Town Manager said he and the DPW Director would respond to Mr. Jeter.

Mr. DeFreitas asked about **Beverly Keenan, Spaulding Road** and Mr. Harrington said he has a permanent injunction from the Court that she is not to do anything to her land unless she goes to the Conservation Commission first. The Board can also tell her to go to the Commission if she calls them.

Mr. Lawlor asked about the **Suzi Landolphi case** - has the Town been served yet and Mr. Harrington said No. When asked if our insurance will cover in this case Mr. Harrington said Yes. Mr. Lawlor asked if the BOS will extend coverage to those not Town employees - Dr. Mike Gilchrist and Judi Hass, the president of the PTO who invited Ms. Landolphi to Chelmsford High. Mr. Lynch said that all our companies have been put on notice and Mr. Harrington said that the School Dept. is using their labor counsel Alan Drachman.

Mr. Lawlor said he wants a primer of appropriate topics of inquiry for the BOS to ask applicants for licenses.
Mr. DeFreitas said that Mr. Harrington advised the BOS not to revoke the **KAP liquor license** and should we have done otherwise. He said that we should never have renewed it, and added that he should have the determination from the Trustee soon. She has put Kapala into Chapter 7, rather than the original CH 11 he filed under, and he has to liquidate.

Mr. Harrington left the room at 7:40 p.m.

Mr. Lynch summarized Town Counsel's contract, stating that it ends on August 31, 1994. He is now receiving $63,000 which includes a 5% increase last year. He works at least 800 hours for the Town and anything in excess of 1,000 hours would be paid at a rate of $75.00 per hour. We pay 60% of his health insurance and he is in the County Retirement program. Mr. Lynch is recommending a 4% increase, in line with other employees. He also gets $20 - $30,000 per year from the Sewer Commission. $65,520 is 4%; $65,000 is 3.2%.

Mr. Lynch added that the BOS appoints Town Counsel but he also has statutory responsibilities.
Motion by Mr. Lawlor, seconded by Mr. Brem, to grant Town Counsel $65,500 through the end of his contract.

Mr. DeFreitas disclosed that his wife's business firm prepares the payroll for Town Counsel but he will vote on the increase
Roll Call vote on Mr. Lawlor's motion was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye;Mr. Brem-Aye; Mr.Logan-Aye and Mr. DeFreitas-Aye.

Mr. Harrington rejoined the meeting and Mr. Brem left at 7:55 p.m.

Mr. Logan asked the Manager about the **Fire Dept. employee** that he was investigating for **alleged misuse of sick leave.** Mr. Lynch said he has investigated the matter, spoken with his lawyer and his doctor, received a letter from his doctor and has analyzed his leave (both sick and vacation) habits. The employee has been told not to abuse taking leave on day shifts.
Motion by Mr. Logan, seconded by Mr. Joyce, **to ask the Town Manager to do an analysis of firefighters, who's abusing sick time, who's had injured on duty claims and how many men have called in sick in the past two months.** Mr. Lynch said he should have this analysis in a couple of weeks and Mr. Logan said it not his intention to harass but to get this information.
Roll Call vote on Mr. Logan's motion was Mr. Lawlor-Nay; Mr. Joyce-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

At 8:20 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, **to go out of Executive Session.** Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

For the Board of Selectmen, by
Judith E. Carter

An **Executive Session** was held September 13, 1993 after the Regular session. Present were Mr. Lynch, Mr. DeFretias, Mr. Lawlor, Mr. Logan, Mr. Brem and Mr. Joyce.

Bernie reported to the Board that due to Education Reform he is part of the School Committee Team in regards to collective bargaining. He said the main issue is bidding. He will keep the Board up to date on the outcome of the negotation sessions.

Mr. Lynch reported that 1 proposal had been received for the North Town Hall. He said that the proposal met the minimum bid but the bidder did not present the financing requirements due to the fact that the cost are so high to obtain the information. Mr. Lynch asked for the Boards support so that he may go ahead and work with the bidder. The Board gave Mr. Lynch approval to continue with the project.

Marian D. Curran

Executive Session of the Board of Selectmen held Monday, September 27, 1993 at 6:35 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, and Jeffrey A. Brem. William R. Logan arrived at 6:45 p.m. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present. **The purpose of the Session was pending litigation.**

Mr. DeFreitas said we will be discussing **the Suzy Landolphi case** with the School Committee next Monday. Mr. Harrington said he has read the complaint but has not seen any attachments and he wants to see a contract signed by Judi Hass as a representative of the PTO and the School Committee. There is a question of whether we will indemnify certain people for legal expenses and damages.
Mr. Harrington continued that under Chapter 258 the town has accepted Section 13 so we will indemnify and make harmless municipal employees up to $1 million. He said that under Section 9A as a public employer the Town may indemnify against a civil rights obligation but not necessarily. There has to be a connection between the Town and a person, and he asked if Judi Hass is an agent of the School Dept. and PTO. Mike Gilchrist is being sued as the School Dept. physician.
Mr. Harrington said that he has only heard from the School Dept. once on this matter and added that the School Dept. cannot indemnify - it may be only that the Town can through Town Meeting action. He noted that Mr. Lynch was not indemnified in his suit, that the BOS only agreed to pay for legal counsel.
Mr. Lynch said that Barbara Ward, School Comm. CH hoped that the Town would continue to use Allan Drachman, their labor counsel. Mr. Harrington said that under their budget the School Committee has the right to hire counsel on School Department matters but he himself has never been hired by them. Mr. Lynch stated Atty. Drachman interprets the School Comm. as being a public employer but Mr. Lawlor said that their insurance company can say No.

Selectman Logan arrived at 6:45 p.m.

Mr. Harrington said he doesn't know if the Town can take on this indemnity - to permit the BOS or Town Meeting to impose liability upon the taxpayer if they can't show that it is for a municipal employee. He stated that with the exception of the HIgh School all the separate PTO organizations are set up and incorporated. If a PTO is acting for the Town then they are insured.
Mr. DeFreitas commented that the School Committee did not vote to indemnify Judi Hass and Mike Gilchrist and Mr. Harrington said if he gave them an opinion and they relied on it they could sue him. He doesn't mind if Atty. Drachman handles their side but he as Town Counsel wants to be included -he is not to provide just for the School Dept. but

for the whole Town. Mr. Lynch asked do we want that firm if there is ultimate liability. Mr. Harrington said there may be a stretch as to what comes under the School Committee. He believes that the appointment of counsel in this case either comes under the BOS or is a joint appointment and thinks that the suit will eventually be against the Town, through its School Committee, and the public employer shall be deemed to be the Town. Can we find a link to cover J. Hass and Dr. Gilchrist is an area that needs to be investigated. He further stated that there is reference in the suit to an alleged contract signed by Judi Hass for the PTO/School Comm. The School Comm. is not a corporate body - the Town is, and the BOS can't vote to indemnify until a link is found.

Mr. Logan concluded the discussion by stating that Mr. Harrington should be the "point guy" since the final decision ends here and he should direct any activities.

Re the **Shawmut Bank parking** situation he has communicated with Judy Adams Clarke and hopes for an answer next week.

At 7:00 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to go out of Executive Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, October 4, 1993 at 9:00 p.m. to discuss pending litigation with Town Counsel James Harrington and the School Committee. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

The Board met with Mr. Harrrington alone at first. He told the Board that at the last meeting he felt his office was out of the loop and not informed on **the Suzi Landolphi matter.**
Mr. Lynch said there are two questions: will the insurance company assign the case to the attorneys for the School Committee, and does the BOS wish to use this firm.
Mr. Harrington said he recommends that the Board not make that appointment tonight and he has some concerns. He has received nothing from Supt. Richard Moser, and Mr. Lynch said he is trying to convince Dr. Moser and the School Committee that this is a Town case.
Mr. Logan asked if the BOS should deliberate ourselves, and Mr. Brem asked if we want to hire Special Counsel and have Mr. Harrington coordinate.
Mr. Harrington said he has concerns that the letter in question is dated September 9 and they are just showing it to us.
He said that indemnification is mandatory and the BOS need take no action. The School Dept. attorney has told the School Committee that the BOS can indemnify under under Section 9 of Chapter 258 but it is Town Counsel's opinion that Section 9 requires Town Meeting action.
Mr. Lynch said he thinks the BOS should be involved but Section 13 is mandatory and we have to indemnify all public officials, but not Dr. Gilchrist and Ms. Hass.
Mr. Harrington said he doesn't think we have to mandatorily supply Special Counsel. The complaint states that Ms. Hass and Dr. Gilchirst are agents of the Town and this allegation should be investigated. We have to convince the School Committee that this is a Town matter, not a BOS or School matter, because there are non-covered persons involved. The focus is on indemnification.

Mr. DeFreitas concluded that we want Town Counsel to be the focal point and want all information to be given through him, along with the Town Manager. He added that mandatory indemnification covers all School Dept. employees.

At 9:10 p.m. School Committee members Barbara Ward, Wendy Marcks and Mary Frantz along with Attorney John Foskett, associated with Allan Drachman, their labor counsel, joined the meeting.

Attorney Foskett said that they've been holding the fort, and have a letter from their insurance company with reservation of rights, and they won't appoint counsel until service is made. He has met with Suzy Landolphi's attorney and the Civil Rights attorney who will represent Dr.Gilchrist and Ms. Hass. If service isn't made within 120 days they can't proceed.

If the case is served we will go to Court and ask to have the case dismissed. There are 3 Federal claims and 5 claims under State law. It was noted that Judge Keaton likes to dispose of Federal constitutional claims and he will probably dismiss these because they don't state a claim. There is not enough to show exposure - students must have been compelled to listen to the program or there must have been some violation of religious beliefs.

Ms. Ward said that on September 1st the School Committee voted to indemnify all the plaintiffs named except Ms. Hass and Dr. Gilchrist on the advice of counsel. Ms. Frantz and Ms. Marcks were present at the April presentation, which is why they were named separately.
Mr. Lawlor asked if Tudor Insurance Company has said they will pay defense costs and they will not, until service is made. Mr. Fossket commented that some of the defendants have different interests than the School Committee in doing things right away and Ms. Ward said they have heard talk of counter claims which could hurt the School Committee.
Mr. Lawlor said the issues are: indemnification, legal fees up to time of service and after service, legal services and liabilities.

Mr. Harrington said he has asked for a copy of the Tudor policy but has received only part of it. Mr. DeFreitas stated that the BOS wants Mr. Harrington to be the focal point of information so we can be fully advised to make the right decision. Ms. Ward said that they want to cooperate - there was an article in the news as to who would indemnify and how it would be done.

Mr. Harrington said he has concerns: that the School Dept. voted to indemnify and where did they get the authority to do so. Statute 250A states that the Town, not the School Committee, can indemnify, and the legal question is who can vote. He said that under Section 13 indemnification is mandatory and we don't need any vote for it - it indemnifies

any action other than the intentional violation of civil rights.
Mr. Harrington said he is recommending to the BOS that his job is to represent the Town and the BOS, and he wants to act as coordinator between the two boards. He said he has asked for information and has a copy of a Sept. 9 letter in which their insurance company is denying coverage. Mr. Harrington said he argues with insurance companies all the time, and there is nothing in the policy that says they have to be sued to get coverage. There is a problem - this is a Town problem and any liabilities would come from Town funds, and they shouldn't be using School Dept funds to hire an attorney for the School Committee. Mr. Harrington said that he would not be representing any individuals, only the Town.
Ms. Marcks said she was named individually and thinks this is a political matter and is angry that she has been put in this position. She feels that no one will ever run for any Town office if they can be put in this position.
Ms. Ward and Ms. Marcks both said they think Attorney Harrington is the appropriate person to coordinate and facilitate this case. Ms. Ward added that they didn't mean to create a difference - if they didn't have the legal authority to indemnify, they want to know, and don't want to do anything stupid.

Mr. DeFreitas said we understand the political problems and Mr. Lawlor said that their personal assets won't be touched.

Mr. Harrington said he doesn't want a vote that is unauthorized. He said that he knows that School Comm. members will be indemnified for anything except the intentional violation of civil rights and even if there has to be a Town Meeting vote the BOS and Town Manager will support indemnification.

Ms. Ward said that she hopes the School Comm. can continue to work with Deutsch Williams, and she hopes to sit down soon with Atty. Fossick, Atty. Harrington, Supt. of Schools, Town Manager and Mr. DeFreitas to plan strategy. Mr. Lynch said that we need regular communication.

Mr. Logan reminded all present that all comments remain within this Executive Session.

At 10:00 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn this Executive Session. Roll Call vote was as follows: Mr. Lawlor-Aye; Mr. Joyce-Aye; Mr. Brem-Aye; Mr. Logan-Aye and Mr. DeFreitas-Aye.

For the Board of Selectmen, by

Judith E Carter

Executive Session of the Board of Selectmen held Monday, November 15, 1993 at 10:20 p.m. Members present were: Richard E. DeFreitas, Peter V.Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Mr. Lynch talked about the **Library Union negotiations**, noting that he is aware that Board members have been receiving many postcards. There is mediation again tomorrow night, and all issues including compensation are coming closer. Library Director Mary Mahoney and Labor Relations advisor Jack Chinian are doing the actual hammering out of library issues. We are seeking a 3 year contract, ending 6/30/95, benefit buyback(signing bonus), increases of 3 1/2%, 3 1/2% and performance steps and flattening out of longevity.
On the **Police Union, there is factfinding on November 29** - he wants to play mediator for a day. We are looking for the elimination of manning, sick-time buyback, flattening out of longevity. We can eliminate minimum manning if we can prove the Town has no money but we don't want to do that.
Mr. Lynch reported that re the Patrolman **Debra Metcalf case.** she left two years ago and been on a leave of absence, claiming a hostile work environment. Acting Chief Caron has told her to report for work or be fired.

Mr. Lynch reported that the **Ruby Emery property in the Center** is for sale and the assessed value is $110,000 but they're looking for more - does the Town want to buy this property? Mr. Logan said let's have the Town Manager to discuss this with them, for possible municipal parking. Mr. Logan said that the EDP is looking at the Harvey building - we could take both by eminent domain - the Emery property could be used as an entrance to the parking area. Mr. Logan asked the Town Manager to report back on December 13th.

On the matter of the **Shawmut Bank parking** lot Mr. Lynch has spoken to them briefly and they will get back to him - there is a question of if it is advertised as Municipal Parking what about maintenance and liability.

Mr. Logan said that on November 29, 1991 a **personnel policy report** was adopted by the BOS stating that Town employees may do no political work on Town time or use public office for private gain. He has had two calls requesting him to have two employees investigated - they are accused of making solicitations and political activities on Town time. He also would like to find out employee policies at the Housing Authority - it is alleged that petition signatures were obtained on Town time.
Motion by Mr. Logan, seconded by Mr. Lawlor for discussion.
Mr. Lynch commented that under M.G.L. Chapter 158 a union president is a "protected person". If the accuser goes to the Town Manager he can investigate or not.

Vote on Mr. Logan's motion was as follows: PVL-Nay; RPJ-Nay; JAB-Nay; WRL-Aye; RDeF-Nay. Vote was 4 opposed, 1 in favor.

At 11:05 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to **go out of Executive Session and adjourn.** Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye and RDeF-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, December 13, 1993 at 10:45 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present. The purpose of the session was to discuss pending litigation, purchase or sale of real property and collective bargaining.

Mr. Lynch reported that he has been contacted by Attorney John Connell re the **Ruby Emery property** in Central Square. It is valued at $110,000 for 11,500 sq.ft. with a brook going through it. A real estate agent has said it is worth $199,000 and the Emerys want $400,000. It is commercially zoned, and two people are interested in it. We could take it by eminent domain for $110,000 or less. The second, back parcel is assessed for $5,800.
Motion by Mr. Brem, seconded by Mr. Joyce, to have separate appraisals done for each parcel. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye; RDeF-Aye (4 - 1 in favor of motion).

Mr. Lynch discussed the **property at the end of Wotton Lane,** 31 acres connecting with our recreation area which is for sale. The cost would be app. $1/2 mil. Mr. Brem suggested getting a report from the Town Engineer re the floodplain. Motion by Mr. Lawlor, seconded by Mr. Joyce, to have an appraisal done by the same appraiser as the Emery property. Roll Call vote was as follows: PVL-Aye: RPJ-Aye; JAB-Aye; WRL-Aye; RDeF-Aye.

Mr. DeFreitas said that he had received a Personal, Confidential letter from Mike Kinney re the **Veterans' Memorial Park and the Conservation Commission,** asking the BOS to look into the matter re the Order of Conditions set by the Commission. Town Counsel Harrington has said that under the Charter this investigation should be conducted by the Town Manager but Mr. Lynch will ask Town Counsel to do so.

Mr. Lynch then discussed the **property on Billerica Road connecting with Grove Street. A right-of-way goes from Grove Street to Billerica Road** and C. Ferreira says the right-of-way must be Hildreth Street and the Town used to plow and maintain it. There is a family quarrel between the Caires, Quintals and Ferreiras. Mr. Ferreira has hired Attorney Hausler and the owner at Billerica Road does not want the Town on his right-of-way. Attorney Harrington used to represent the Caires and Attorney Nyman has handled this matter for the Town. We will ask him to again if any further action takes place.

At 11:00 p.m. Mr. Lynch brought the BOS up to date on the **Duck Island matter** and Mr. Brem left the room due to a possible conflict of interest.

Mr. Lynch said we are trying to settle with the City of Lowell. They claim we owe them $1mil, and our figures indicate that we don't owe them anything - they owe us app. $80K. Mr. Lynch said this is a 2-fold problem - we met back in June and they won't respond, and we're trying to work with the Drum Hill area. Since then our communication with Lowell has been cut off, and they're not responding to us. Lowell won't talk about another connection to their system - we have two now, one in North, and one by 495.

Mr. Brem returned to the meeting at 11:15 p.m.

Mr. Lynch then gave the Board a **labor update.** We have had 2 sessions with the **Police factfinder** but came to no agreement. They want to keep the manning language and big salaries, and want it retro to 7/1/92, which could cost us $250K. We proposed that since they got all their benefits during that time we'll pay a $1500 signing bonus and flatten out longevity and sick time buy-back. Legally we can eliminate manning but would prefer not to since it would cause great disruption. Overtime now is $350-$400K per year, and they can't force us to pay retro. Mr. Lynch said that the Fire Dept. made adjustments in their base pay to eliminate sick time buy-back and flatten out longevity.
Mr. DeFreitas said we should go with consistency.

Mr. Lynch said that re **Library negotiations,** this is their first contract and we are seeking a strong management rights clause. If we build a new facility we will bargain the impact on the staff with them. The benefits are the same as Personnel Board rules and regulations, and the library has had no increase since 1990. We are offering a $750 signing bonus, and raise of 3 1/2% effective 7/1/93 plus 1 step (2%) (based on the non-union salary schedule); 1/1/94 - eligible for 1 step; 7/1/94 - 3 1/3%. People at the top don't get steps and max out after 10 years. Five Dept. heads make about $28K yearly, and there are 20 employees in all. The full timers lost money - a $1200 max after 20 years. The library has the money to fund this contract.
Motion by Mr. Lawlor, seconded by Mr. Joyce, to accept the contract subject to final ratification by the union. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye; RDeF-Aye.

Mr. Lynch said that the Fire Chief candidates have been narrowed down to four - j. Sousa, M. Curran, W. Keohane and the Fire Chief from East Bridgewater. He wants to do an Assessment Center on the Fire Chief.

At 11:50 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye; and RDeF-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen and the School Committee held Tuesday, December 21, 1993 at the Parker School. Members present from the Board of Selectmen were: Richard D. DeFreitas, Peter V. Lawlor, Robert P. Joyce and Jeffrey A. Brem. Selectman William R. Logan was not present. The meeting was called to order at 7:10 p.m. Mr. Lawlor made a **motion to go into Executive Session to discuss pending litigation,** seconded by Mr. Joyce. Roll Call vote was as follows: PVL-Aye: RPJ-Aye: JAB-Aye; RDeF-Aye.

Attorney John Foskett reviewed lawyer/client privilege for both Boards.

Attorney John Foskett left the room and Attorney James Harrington reviewed the **Landolphi case.** The Tudor Insurance Company has hired Attorney Ed Kelly of Boston to represent the Town. It was discussed whether to use Attorney John Foskett as Special Counsel to represent the School Committee and other issues regarding the suit.

Attorney Foskett was briefed by Attorney Harrington and returned to the meeting.

Town Counsel advised that the appointment of Special Counsel be done jointly by the Board of Selectmen and the School Committee.

The School Committee voted unanimously to **appoint the firm of Deutsch, Williams, Brooks, DeRensis, Holland & Drachman, P.C. as Special Counsel.** Board of Selectmen also voted to appoint. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; and RDeF-Aye.

The two Boards and the attorneys then discussed the strategy of the case.

At 9:00 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce. to adjourn. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; RDeF-Aye.

For the Board of Selectmen, by

Robert P. Joyce

Robert P. Joyce, Clerk

Executive Session of the Board of Selectmen held Monday, January 3, 1994 at 8:45 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Town Counsel James M. Harrington were also present. The purpose of the Work Session was to discuss **pending litigation.**

Attorney Harrington gave Board members a prepared summary of 28 pending cases and went over each briefly:

1. **Conservation Comm. vs. Doherty/Pare** - no longer legal matter.
2. **Cheryl LaMare, Elas and Demetra Voulgarelsi vs. Town** -being handled by insurance company.
3. **Courthouse Square Shopping Center vs. Board of Appeals and Drum Hill Realty Trust** - settled
4. **St. Vartanantz Armenian Church vs. Board of Appeals - settled**
5. **Robert Periera vs. Board of Appeals** - pending in Land Court
6. **Colonial Gas Co.** re $3.00 per foot charge for street opening permits - they have not pursued matter and we are taking no action at this time.
7. **Mazurczyk vs. Conservation Commission** - settled with Conservation Commission
8. **Brandon Keene** - student injured tooth - referred to insurance carrier
9. **Drew Bissonette** - special needs case - no action yet.
10. **Garrity vs. Town of Chelmsford** - insurance company is handling.
11. This item - **City of Lowell vs Town** will be discussed last so Selectman Brem may leave the meeting since he abstains on this issue due to conflict of interest.
12. **Mass. Bituminous Products vs. Board of Appeals** - no return - matter pending in Land Court.
13. **No. Chelmsford Auto Parts vs. Town** - resolving with Conservation Commission.
14. **Town vs. Michael Murphy and Chongris & Sons, Inc.** - owner was proceeding with compliance in judgment - see new action below
15. **Lewis and Barbara Barlow vs. Chongris & Sons and Town** - action tried in Land Court and awaiting decision of court
16. **Joseph Matezak vs. Michael Stott and Town** - suit not filed within statutes of limitation - case closed
17. **Charles George Trucking case** - being handled by Kopelman & Paige - consent decree approved
18. **Westford Street Landfill** - presently in process of closure,
19. **Marcia Shattuck,** Personal Injury - our insurer has denied liability and referred attorney to manufacturer of swing
20. **Henry Martineau v. Town, Gene Walsh and Lowell Institution for Savings**
    Martineau filed suit challenging return of $677.70 by Town to Lowell Institution - claims police had no proof

that money returned was not his own.
Motion by Mr. Lawlor, seconded by Mr. Logan for discussion, to pay the money back to Mr. Martineau. Roll Call Vote was as follows: PVL-Aye; RPJ-Nay; JAB-Nay WRL-Nay; RDeF-Nay. Motion failed 4 to 1.

21. **Christopher A. Benton** - playground injury - reported to insurer - no suit filed to date
22. **Anne E. Biederbeck** - claim for personal injury - insurer handling
23. **John & Virginia Chuma** - awaiting decision from DEP re sewer line
24. **Paul Dudley** - notice filed that a Highway Dept. employee negligently operated Town vehicle causing injury to his client - reported to insurer - no suit filed yet
25. **Estates of Sean M. Caron and Gregory Saunders** - negligence of Town with respect to conditions on Acton Road allegedly causing death of passengers in motor vehicle. Matter pending with insurer - no suit filed to date
26. **Stacy Sweden** - property damage and personal injury caused by pothole - insurer denied liability - no suit filed to date
27. **Ronald C. Brown et al vs. School Committee et al** - Landolphi case - BOS and School Committee appointed Deutch Williams to rep. School Dept., on First Amendment issues 28. **Sandra C. Donovan** - claim for personal injury due to alleged defect in Old Town Hall parking lot - insurer notified - no suit filed to date

Selectman Brem left the meeting.

The BOS discussed item **#11 -City of Lowell vs. Town** Weston and Sampson has arrived at recommended settlement amount - Lowell meeting with Town Manager this month to try to resolve matter

At 9:30 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; WRL-Aye; RDeF-Aye.

For the Board of Selectmen, by

Robert P. Joyce

Robert P. Joyce, Clerk

Executive Session of the Board of Selectmen held Monday, January 31, 1994 at 10:20 p.m. **Members present** were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch, Town Counsel James Harrington, Sewer Commission Chairman John P. Emerson, Jr. and Judith E. Carter, Adm. Asst. were also present.

Mr. Brem left the room because the BOS was discussing the Duck Island sewer project and he has a conflict of interest.

Attorney Harrington said that we have reached an agreement on the settlement of the **Lowell sewer contract with Duck Island.** We knew that money was owed because we met with Weston & Sampson and they met with the Lowell engineers. Weston & Sampson advised us that a minimum of $1.24 mil is owed based on interest of $636,000, Lowell had asked us for $2.2 mil but the bookkeeping for Duck Island was not done well and items had been moved around. When we met with the Lowell City Manager we said we wanted to settle and the figure is $1.1 mil.
Mr. Emerson said that Tewksbury settled for $1.17 mil and Dracut for $970,000. We've settled everything from 1985 up to date, and Mr. Lynch added that we wanted to settle it all at one time. Mr. Emerson said we did well with this settlement. Mr. Harrington said they really need the money, that they wanted to go arbitration or a factfinder but Mr. Lynch told them that we're here to settle.
Mr. Lynch said that we will be meeting with Lowell again because Mayor Howe wants to sit in on the meeting. They don't want closure and payment for a couple of months.
Mr. Emerson said that our bond issue covers this payment under inter-municipal agreement and Mr. Harrington said we will have to go out to bond but it has already been approved by the Town Meeting.
Mr. Harrington said that in 1986 the Town agreed to pay for a portion of the construction of Duck Island and Mr. Harrington said we hadn't offered them anything because they owed us $70,000. Mr. Lawlor asked if any of the money could go into escrow for the capping of the Lowell landfill but it was decided that this would not be wise, that these are two separate issues.
Mr. Lynch said that at one time we were talking $342,000, that we owe no interest, owe no consent decree and are in a bargaining position, that this has not been an ongoing thing and we are now OK on Drum Hill and East Chelmsford.
Mr. Harrington said that our engineers say we're responsible 1/2 the consent decree, and not all maintenance.

At 10:35 p.m. Mr. Brem rejoined the meeting.

Mr. Harrington said we are being **sued for $700 by Henry Martineau,** who robbed the Lowell Institution for Savings in 1989 and states that the $677.00 the Town returned to the

bank really belonged to him. Mr. Harrington is going to court next Monday and does the Board want to re-consider. The BOS told him to ask for a continuance.

Mr. Harrington left the meeting and Mr. Lynch gave a chronology of the **Veterans' Memorial Park** matter.

Mr. Lynch said that after the **Police Factfinding** Saturday we're optimistic -the Town had 70 exhibits and the Union didn't seem particularly well prepared. We have 30 days to file briefs and should have a report by the first of May. The matter could still go to arbitration and the Town is bound by arbitrator's decision - we have to keep going back to Town Meeting until we get the funds if it is ruled that we owe any monies.

Mr. Lynch reported that David Gilet is doing the appraisal on the **Emery property** in Central Square.

We have received notice that **Edward Hilliard** is planning to sue the Town for $100,000 and Mr. Lawlor noted that this notice is a public document.

At 10:45 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye and RDeF-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, February 28, 1994 at 10:35 p.m. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Lynch said that we have received an **appraisal on the Emery property from Gilet for $100,000.** Mr. Logan said the Town Engineer has surveyed the building and we can get 25 -26 parking spots if it is torn down. We will not be getting the firm use of the Shawmut parking lot. The Emerys are asking $300 - $400,000 for the property and Mr. Logan said the house was built in 1858, not 1655. It was decided to discuss the matter at the March 14 meeting.

Mr. Joyce reported that he has spoken to **Town Counsel re his proposed restitution policy** and Mr. Harrington has advised him to not set the policy now, to wait until the Citgo case is over and then make a policy for all future cases.

Mr. Joyce asked in the length of time that **police negotiations** have been ongoing, what have we paid Dee Moschos and Mr. Lynch said between $15 - 20,000. Mr. Lawlor said if it is not retroactive we should make out OK, and Mr. Lynch said we should hear from the factfinder soon.

At 10:55 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn the meeting. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye; RDeF-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, March 14, 1994 at 9:20 p.m. to discuss real property. Members present were: Richard E. DeFreitas, Peter V. Lawlor, Robert P. Joyce, Jeffrey A. Brem and William R. Logan. Town Manager Bernard Lynch and Judith Carter, Adm. Asst.

Mr. Lynch showed the Board plans for the **Emery property** in the Center with various parking lot layouts. He has spoken with Attorney Connell and the bottom line price is $100,820. With the cost of construction we are looking at a total of $125,000 - $135,000.
Mr. Logan said that the EDP and the DPW are working on a larger proposal to do with the entire Center and this is part of it. This is consistent with their plan for the potential refurbishing of the Center. They will have to sell the idea to the Town and plan to promote Chelmsford Center. The issue is - do we take it by eminent domain if we have to, and Mr. Lynch said if the BOS is in favor he will talk to Atty. Connell tomorrow.
Motion by Mr. Lawlor, seconded by Mr. Joyce, to ask the Town Manager to offer an amount not more than $100,820, with the condition that the expenditure is offered subject to Town Meeting action. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye; RDeF-Aye.

Mr. Lynch then said that there is a **33.3 acre parcel of land at Southwell Field** that has been assessed for $290,000, with taxes of $5,227. The appraiser said the Fair Market Value is only $1.00 because of wetlands. Mr. Lynch said he thinks we have to offer the assessed value but he will meet with David Gilet, the appraiser. If the land is to be used for recreational purposes we may be able to apply for grants.

Mr. Lynch told the Board that the **Kecy property** behind the highway yard is for sale - app. 20 acres.

Mr. Lynch reported on the **status of the North Town Hall** - the architect has completed his work and the prospective owner is lining up his financing.

At 9:55 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to adjourn. Roll Call vote was as follows: PVL-Aye; RPJ-Aye; JAB-Aye; WRL-Aye; RDeF-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, April 11, 1994 at 10:50 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The **subject of the session was: strategy session with non-union personnel, purchase or sale of real property and pending litigation.**

Mr. Lynch brought the BOS up to date on the **Charlie Ferreira matter on Grove Street,** stating that Mr. Ferreira thinks that the right of way should be a public way and when Ceasar Caires worked for the Town it was plowed and sanded and patched. The question is, should the Town take on a road that's not wide enough and on a curve and could be a liability.

Mr. Lynch read a letter from Attorney Philip Nyman, advising the Town that we should let the two parties fight it out, and if it's determined that it is a private way, have Mr. Ferreira petition Town Meeting to accept it and he will have to bring it up to our standard road, or if the parties don't agree, he should take it to Land Court. Mr. Lawlor agreed that there is no need for us to do anything.
Motion by Mr. Lawlor, seconded by Mr. Brem, to send a copy of Attorney Nyman's letter to Attorney Doug Hausler and say that the Town intends to take no further action based on the advice of counsel. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

Mr. Lynch discussed the **Emery property in Central Square** noting that the BOS has authorized the Town paying up to $108,300 to purchase the property and we can bond $100,000 for five years. He showed the 3 option plans for a parking lot.

Mr. Dalton left the room at 11:12 p.m. as he has a potential conflict discussing police factfinding and the Public Safety Director position.

Mr. Lynch brought the Board up to date on the **Police Union Factfinding,** noting that our strategy has been to eliminate items that have hidden costs to the Town - longevity, sick-time buyback, vacation work week and minimum manning, and adding that we have done well with the Fire Dept. union on these issues. We came close 18 months ago but they wouldn't give up longevity and sick time buyback so we went to mediation,. went to the Joint Labor Management Committee and now have gone to factfinding. We are not happy with the verdict - we offered to give them a one time $1,000 payment but the factfinder didn't go along with that. He is proposing 3 1/2% the first year, 3 1/2 the second and the third year the top base salary would go to $35,860 - if retroactive it would cost us $117,000. The lowest step is $22,000 and we had prepared a 9 step plan but the factfinder

said no, it should be a 4-step plan. An arbitrator will use this to make a decision. We'll still try to work with then, but we'd planned on $60,000, not $117,000. Minimum manning is gone, and we'll start reducing the minimum number on the late shift. The factfinder says we're at an impasse, but we'll try to negotiate for an agreement and then go to an arbitrator. Whatever he comes up with will have to be funded at Town Meeting. Mr. Brem and Mr. Lawlor both told Mr. Lynch not to feel any pressure to capitulate.

On the position of **Public Safety Director** Mr. Lynch told the Board that Jon Fasana is due on April 25th, for $68,000 per annum and we have a commitment to him based upon the appointment that was made. He has talked with Dee Moschos and Jim Harrington. There is a section in the Charter geared towards 150E, collective bargaining agreements. It had been Mr. Lynch's intention to pursue a contract but on the advice of counsel there is no provision under State law for a contract, only a letter of understanding. Mr. Blomgren said he would kill the deal right now if he could.
Mr. Lawlor said we have a spectrum of options- whatever terms were contracted in the letter to hire based upon the vote of the BOS. He wishes we could persuade Mr. Fasana to not want to come but the BOS did take action and by such authorized Mr. Lynch to send the letter. Mr. Lawlor feels if we withdraw the offer we could have financial implications. He feels we have made a commitment and should stick to it.

Mr. Brem said he was against the concept of public safety consolidation at first but the structure was formulated and positions filled except for this one. Mr. Lynch appointed and the BOS confirmed the appointment. We can't run a government by going backwards and we're three steps too late now. We've gone too far to turn back and would have to take back the new structure. It is a tenuous situation for Mr. Fasana to stay there and Mr. Brem feels we should let him come in and do the job and evaluate him in 2 - 3 years.

Mr. Joyce said he feels the structure can run the way it is and he has a real problem with a contract and challenges the ruling that Mr. Lynch has received on the letter of understanding.

Mr. Blomgren said the engine is moving forward and he has apprehensions and concerns. People are still saying we don't need this position. He said our options are to call Jon Fesana and tell him that things have changed significantly and the climate is not suitable for this position, or he could come here with no contract and we will honor our offer, but after April 25th the budget could be trimmed by $68,000.

Mr. Lawlor commented that if he doesn't come we will have a Public Safety Department with no director, but Mr. Joyce thinks that what we have in place now can work. Mr. Brem

asked if we rescind the vote how do we put it together.

Mr. Lynch said he has advised Mr. Fasana that there will be no contract, that Mr. Lynch doesn't have the to offer a contract but can offer him terms of employment. Mr. Blomgren advised Mr. Lynch to tell Mr. Fasana that the mood within the community is one that won't support a public safety director.

Mr. Lawlor said he may be setting us up for a lawsuit, and Mr Lynch stated that there should only be one voice that should be talking to him.

Mr. Blomgren said that we do have to honor the commitment but should know the flavor of the community. If he would withdraw himself we would be pleased. Morally and legally we owe him something, but we're reexamining our commitment.

Mr. Lynch told the Board he would continue to work the issue and keep the Board informed. He is a firm believer in this position, but also understands the issues that are out there.

Mr. Dalton re-joined the meeting.

At 12:05 a.m. motion by Mr. Joyce, seconded by Mr. Dalton, to go out of Executive Session. Roll Call vote was as follows: RPJ-Aye: WFD-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Emergency Executive Session of the Board of Selectmen held Tuesday, April 19, 1994 at 6:30 p.m. to discuss collective bargaining with a non-union employee and potential litigation. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch, Assistant Town Counsel Victor Manougian and Adm. Asst. Judith Carter were also present.

Chairman Blomgren asked Atty. Manougian to brief the Board on where we stand legally on the **matter of hiring Jon Fasana as Public Safety Director.** He said that under Section 4.2 of the Charter the Town Manager appointed Jon Fasana as Public Safety Director on Feb. 25 and the BOS had 15 days to approve the appointment, which they did. Since then documents have been sent back and forth and Mr. Fasana has returned a suggested contract. There could have been a counteroffer to our letter of April 15th, which was withdrawing any contract and offering employment at will.
Mr. Manougian continued that Mr. Fasana has cause to sue for damages if we don't hire him and has either a contract or appointment at will. As to what he's entitled to - we can terminate the contract but there is a question as to what we have with him - he has out of pocket expenses.

Mr. Lynch said there has been an understanding that this was a 3-year arrangement - both in the proposal and on the part of Mr. Fasana. Mr. Joyce said when we voted on Feb. 28th was that part of our vote, and Mr. Lynch said No, it was an understanding. Mr. Joyce said so the BOS didn't really vote a 3-year contract, it was an understanding on the part of 4 out of 5 Board members and he wasn't one of the 4.
Mr. Lynch added that at the last BOS meeting the Board showed a lack of support for a 3-year contract and he is now asking that the BOS go on record to endorse the 3-year commitment. Mr. Lynch noted that when the commitment was made 4 out of 5 Board members knew it was for 3 years and he wants the Board to go on record - do they support it or not. Mr. Lynch said he recognizes the political issues involved, but it is imperative that Jon Fasana have the support of the BOS to carry out the consolidation plan.

Mr. Blomgren summarized what happened at the last meeting and since, noting that we should know where Mr. Fasana stands, that he has now engaged local counsel and what could conceptual damages be. What are the risks if we terminate him and what are the risks if we don't.

Mr. Lawlor said that something has been tendered to Mr. Fesana and that we need a multi-step analysis - 1. does there exist a will on the part of this BOS to support the 3 year agreement, and if not, what steps will we support to get out of it.
Mr. Joyce asked Town Counsel if this is a contract or a

commitment, he sees in front of him an employment contract, and we should be voting a contract, not a commitment.

Motion by Mr. Brem, seconded by Mr. Lawlor for discussion, that regarding the Public Safety Director's position it is the intent of the Board of Selectmen to commit to a 3-year period.
Mr. Manougian said we can do a 3-year employment at will, it doesn't have to be a 3-year contract. Mr. Lynch said we will have to hire him with a 3-year commitment, and Mr. Blomgren said we don't yet have an acknowledged offer. Mr. Manougian said there is a difference between signing a 3-year contract and employment at will - it is downsized if it is not a contract.

Mr. Blomgren asked if the Town Meeting can take away the $68,000 salary and Mr. Manougian said No, they can only vote a bottom line budget. Mr. Lawlor stated BOS has gone on record offering this gentleman the job, that the Board and the Town has made Bernie it's agent through the Charter, he can't think of any non-political facts that have changed since the vote was taken in February and the only facts he see are political.

Mr. Dalton stated that this BOS has not supported the position, only the previous Board did. Mr. Lawlor said that Boards do not change, only names and faces do.
Mr. Blomgren said that other economic facts have entered the picture - school issues, early retirement, Center School, dropping programs and letting teachers go - facts which go beyond the political and are financially charged.

Mr. Lawlor said if we were to say through some fiat that we do tonight that the entire exercise of a public safety department is abolished and we were going to recreate and restaff our police and fire departments as they were prior to it then in fact we'd have money spent well beyond what's budgeted. Mr. Joyce said that's not true, that this is "VooDoo" economics - he knows we can go back to the structure we have now and operate these departments. Mr. Lawlor asked how does he know that and Mr. Joyce said "because I know it".
Mr. Joyce said that no Board has taken action on a contract and as far as he is concerned no BOS has approved the contract - this is the first time he's seen it and he was on the previous Board.
Mr. Lynch told the Board that an option is that it is within his authority to make appointments and he could be appointed from now until April 1, 1997.

The **Roll Call vote** on Mr. Brem's motion was as follows: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye;and RAB-Nay. Vote was 2 in favor, 3 opposed. Motion failed.

Mr. Blomgren asked Mr. Manougian what risks have we created

and Mr. Manougian said we have to pay his damages and he has the right to sue us.

Mr. Lynch said he wants to resolve the issue of liability, and Mr. Manougian said he heard from Town Counsel Harrington that Attorney Joe Shanahan is representing Mr. Fasana and Mr. Lynch said that Mr. Shanahan had come in to talk with him on Friday and said that in order to settle things they are looking at a 9 months salary figure of app. $51,000. He has given notice in California, has hired movers and put 3 months rent on a condo in No. Chelmsford, and he won't know for sure about his job there until Friday. Mr. Manougian said that even if can get his old job back he could be looking for serious damages.

Mr. Joyce said we have a problem with this - he's just getting new stuff - new information that Mr. Lynch has talked to Mr. Fasana and Attorney Shanahan. Mr. Blomgren said we heard that sometime Saturday and that's why we're meeting tonight. Mr. Lynch is bringing us forward since the last communication.

Mr. Manougian advised the BOS that they could either offer Mr. Fasana the position for less than 3 years, or authorize Mr. Lynch to negotiate damages.

Mr. Lynch said he talked with Mr. Fasana this pm and he anticipates that he will get his job back, although maybe not for long. Mr. Shanahan said they are asking for $51,000 and Mr. Lynch said that we would offer less than that, that Mr. Fasana's out-of pocket expenses were app. $10,000 and Mr. Lynch indicated to him that we might pay $20,000 and Mr. Shanahan and Mr. Fasana today both indicated they would maybe take $30,000. Mr. Lynch said he thinks he can settle for $25,000, and he has already drafted a settlement agreement though Dee Moschos.

Mr. Dalton said why are we discussing this - because of the atmosphere of the community - they don't want the concept of Public Safety Director. Mr. Blomgren said we have to take this out of the political scene and said if this $25,000 is already in the budget the accrued savings could go for other services, potentially. Mr. Manougian said he will look at the agreement and make sure it's all inclusive.

Mr. Brem said he doesn't think we should pay money for work not done, it is a big mistake because we've made the appointment and he is strongly against it.

Mr. Dalton said it is all political but he thinks the people will be willing to spend this level of money to save money on the other end.
Mr. Joyce said there are political issues and if we pay this salary over three years it's $210,000. He added to Mr. Brem

that you've got to run next year but that he himself will have no problem two years from now telling the voters that he cancelled the contract to save the Town $185,000.

Mr. Blomgren asked Mr. Lynch what risks do we have as a Town by not going forward with this, and Mr. Lynch said he is concerned with administrative staffing without Jon Fasana. He is pushing forward with the plan without the Public Safety Director's position being filled, and he would coordinate it himself and depend on the Chiefs to go forward. He would keep the Fire Deputy Chief in place and the Police Dept. has temporary administrative help on which they may keep. He still wants to go to increased ambulance service and centralized dispatch, and will update the BOS after Town Meeting. Mr. Blomgren said he wants to see a report on consolidation on the table, with two chiefs.

Mr. Lawlor said he is very uncomfortable with the direction he is seeing, the BOS is lurching from position to position, we're not looking good for a Town or a Board of Selectmen and we can't keep rescinding votes. He sees this as a trend, that anything is up for grabs and reconsideration. Mr. Dalton said we should listen to the pulse of the community. Mr. Blomgren said he doesn't feel guilty putting the issue back on the table, that it is a matter of economics and common sense.

Mr. Lynch said he doesn't try to over-use his authority as manager but that the Charter allows the Town Manager to create organizational changes.
Mr. Lawlor noted that Attorney Manougian has not said that walking away from Jon Fasana is best.

Mr. Joyce moved to authorize the Town Manager to negotiate a settlement with Jon Fasana that eliminates all liabilities to the Town for not more than $25,000, to be reviewed and approved by Town Counsel, seconded by Mr. Dalton. Mr. Lawlor asked to amend the motion to authorize Mr. Lynch to go up to $30,000 with an OK from the Chairman, but this was not seconded. Roll Call vote on Mr. Joyce's motion was as follows: RPJ-Aye; WFD-Aye; JAB-Nay; PVL-Nay; RAB-Aye. Motion carried, 3 - 2. Mr. Brem and Mr. Lawlor did not want to vote to make it unanimous.
Mr. Blomgren said there will be questions, e.g. did Mr. Dalton vote but all questions should be referred to Town Counsel.

At 7:30 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to go out of Executive Session. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; JAB-Aye.

For the Board of Selectmen, by

Judith E. Canto

Emergency Executive Session of the Board of Selectmen held Monday, April 25, 1994 at the Senior Center at 6:30 p.m. **Members present** were: Roger A. Blomgren, Robert P. Joyce, William R. Dalton and Peter V. Lawlor. Selectman Jeffrey A. Brem joined the meeting at 7:05 p.m. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James M. Harrington were also present.

Chairman Blomgren opened the meeting at 6:40 p.m. Motion by Mr. Joyce, seconded by Mr. Dalton, **to go into Executive Session to discuss potential litigation.** Roll Call vote was as follows: RPJ-Aye; WFD-Aye; PVL-Aye and RAB-Aye.
Mr. Blomgren said he has asked Mr. Harrington to the best of his knowledge to bring us forward as to where we stand with the matter of the Ethics Commission concern regarding the vote taken last Tuesday re the offer to Jon Fasana.
Mr. Lawlor asked if this is an appropriate topic for en Executive Session, that we're talking about the issue with the State Ethics Commission and their opinion on what occurred last week.
Mr. Blomgren said the vote was taken in Executive Session and the matter should be discussed in Executive Session. Mr. Harrington said we're voting to settle a question of potential litigation.

Mr. Harrington said the Ethics Commission received a formal complaint that Mr. Dalton may have been in conflict when he voted for the Public Safety Director. Mr. Harrington had written an opinion that Mr. Dalton was not in conflict be cause he thought we had the Strong Chief Statute and Mr. Dalton would not come under the direct jurisdiction of the Public Safety Director. The question is has the Strong Chief statute been rescinded by the Charter and the reorganization of the Public Safety Consolidation. Ethics had first agreed with Mr. Harrington's opinion and is now reviewing it again based on new information supplied to them to see if we are still under the Strong Chief statute. Mr. Blomgren asked who makes that determination - Ethics? Mr. Harrington said he had always been under the opinion that if the Strong Chief statute was voted in by Town Meeting it could only be reversed by Town Meeting, but a case in 1993 said it could be reversed by the Charter and if there has been any special Gen, Law that has been adopted by the Town the Charter takes precedence over it. Ethics is reviewing it and will give a written opinion.

Mr. Dalton was within his rights in voting last week by the letter he received from Mr. Harrington as Town Counsel but the opinion now has to go to Andrew Crane, Head of the Ethics Commission because they have to review Mr. Harrington's opinion and their own verbal opinion to Mr. Dalton.
Mr. Harrington said that his recommendation to Mr. Dalton is that until we get a final ruling from the Commission is that he should not enter into any deliberations or vote on any

Public Safety Director issue. He may want to excuse himself from the room, not as an admission of conflict, but until we get a ruling.

At 6:45 p.m. Mr. Dalton dismissed himself from the room.

Mr. Blomgren said the vote has been made and we want Mr. Harrington's advice.
Mr. Harrington said we have to take a look at where we are in this thing and where does the Board and the Manager want to go. He understands an offer of settlement was voted and made to Jon Fasana and he accepted but no check has been generated. The Ethics Commission has advised that we don't issue a check yet. Mr. Joyce asked what right does Ethics have to tell us to not generate a check and Mr. Harrington told him that when a complaint is filed a vote is "tainted" and could become void and we would then have to ask for the check back.
Mr. Joyce asked if a vote is "tainted" and has to be revoted do we have to vote on the same motions and Mr. Harrington said No - if it's gone, it's gone.

Mr. Blomgren said it would appear there is sufficient doubt and asked Mr. Harrington should we rescind the vote of last week? Mr. Blomgren said the Town is in a difficult position not to send the check and should we now rescind the vote of last week since Mr. Fasana now believes there is a new contract in effect for him and he should now receive some renumeration. Mr. Harrington said not unless you're willing to do anything else, and told Mr. Lynch that he thought we'd hear from Ethics sometime this week.
Mr. Lawlor said pursuant to the last vote that doesn't preclude that we shouldn't issue a check under other scenarios - either under a new majority of the Board voting to do it, or Mr. Lynch acting could issue a check under his own plenary powers.
Mr. Harrington said that Ethics has indicated that there is a vote out here and he would not recommend that Mr. Lynch send a check without another vote of the BOS without Mr. Dalton voting. It's not a responsibility we want to put on Mr. Lynch.

Mr. Joyce asked if we took another vote would that resolve that problem and basically the issue.
Mr. Lawlor said only with Jon Fasana - we still need to have the Ethics ruling on where Bill Dalton stands. We can't continue to have issues like this where we look like the Keystone Cops, although it's not Bill's fault.
Mr. Blomgren said he is deeply concerned about the Town and the "tainted" vote and had hoped we could move forward.
Mr. Harrington said there are 2 ways for Ethics to go -they now have to respond to his letter and his feeling with Ethics is that they will overturn his opinion.
Mr. Lynch asked if there is any advisability to wait for the

Ethics ruling and Mr. Harrington said they will probably tell us to go back and rescind the vote. Mr. Blomgren said if that's the case we're are just delaying the inevitable.

Mr. Joyce asked do you have to rescind the previous vote or make a new motion to authorize the Manager to make a $25,000 settlement and Mr. Harrington said either way
Mr. Blomgren said in that case his preference is to undo the "tainted" vote and come back with the appropriate motion and he would prefer not to do so in the absence of Mr. Brem.
Mr. Lawlor said our options which would resolve the issue are -a new vote right now, or wait for Mr. Brem which would mean a 2 -2 deadlock and would void the last vote. We could see if either Jeff or Peter under all these circumstances could resolve this matter. Mr. Joyce said if we do it all at once this wouldn't be an issue.

Mr. Harrington said you now have made an offer based upon your vote - for the BOS now to rescind the vote may be good but we won't know until we hear from Ethics.
Mr. Blomgren said if we took the vote now, I don't know what the outcome would be.
Mr. Harrington advised that they wait for Mr. Brem and said he's not sure where we go next - if the BOS withdraws the offer Jon Fasana could come back to re-negotiate, he's already signed off on the release and a release is no good if you withdraw the offer. Mr. Joyce asked isn't that a technicality at this point - if we withdraw the offer and then come up with a brand new offer.

Mr. Lawlor said as for options a deadlock is not good, this is a political matter and you are asking either me or Jeff to eat crow - this is a tough position to be in -to Mr. Blomgren, maybe you and Mr. Joyce should vote now. Mr. Joyce said we're trying to be inclusive.
Mr. Blomgren said he doesn't feel comfortable voting now -the Town's best interests are served by doing what is right and a 2 - 2 vote would not help the Town.

Mr. Brem arrived at 7:03 p.m. and Mr. Blomgren told him that the Board is in Executive Session and Mr. Brem voted Aye to go into Executive Session with the Board.
Mr. Blomgren explained to him that the problem is the legality of the vote taken last week and the use of the Strong Chief provision questions the legality of Mr. Dalton voting, which came before the Ethics Commission. He explained what we could do and said we are talking about what is the right thing to do - the removal of Mr. Dalton's vote would change the outcome of any vote to a block. Mr. Fasana believes he has compensation coming and the Town believes we are going forward and we have to do something.
Mr. Blomgren said we can put the vote on the table or wait for the ruling from Ethics.

Mr. Lawlor questioned what do we say publicly on the issue Bill and his vote, and Mr. Blomgren asked Mr. Harrington if we should say that there has been a concern raised on this subject and the State Ethics Commission and Town Counsel are both working on this matter and we are waiting for a ruling to come down in the next few days. He added that Mr. Lawlor has expressed concern about a gridlock.
Mr. Brem asked how did we know that Ethics is reversing its previous decision, and if it isn't in writing they could reverse it again.

Mr. Joyce asked if we get to argue our case and Mr. Harrington said he has already argued it. Mr. Joyce said he is not comfortable with the Strong Chief issue - he thinks we've hired a Fire Chief who is under the impression that he is a Strong Chief.
Mr. Blomgren said we have to decide if we're voting political issues or right business issues.
Mr. Brem said if we haven't issued the check yet is there any time frame and Mr. Lynch said it says within 10 days and it was signed last Wednesday so it would be 8 days on Thursday.
Mr. Harrington said he recommends that the Board not rescind the previous vote.
Mr. Brem said if Ethics should change their minds again, wouldn't we look silly.

Mr. Blomgren suggested that we meet again on Thursday on this issue and Mr. Harrington said he will tell Ethics that we would like to have their decision by then. Mr. Blomgren said if the vote comes out 2 to 2, we have another legal entanglement to deal with.

At 7:12 p.m. motion by Mr. Joyce, seconded by Mr. Brem, to go out of Executive Session. Roll Call vote was as follows: RPJ-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

For the Board of Selectmen, by
Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, April 28, 1994 at 6:10 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Joyce moved to **go into Executive Session to discuss potential litigation,** seconded by Mr. Brem for discussion. Mr. Lawlor said he is going to vote against Executive Session, but Mr. Harrington said he personally is requesting the session to discuss pending litigation with the Board. Roll Call Vote on Mr. Joyce's motion was: RPJ-Aye; JAB-Aye; PVL-Aye and RAB-Aye;

Mr. Harrington said the issue is the Fasana matter - the issue is a question of pending litigation on the vote with the settlement. We need to resolve tonight whether that vote was legal and if it wasn't do we have to take another vote and where do we go from here. Tied to that is the question
that has been raised by the Ethics Commission concerning Mr. Dalton's request for an opinion which I gave him - under the statute all that matter would be confidential. If the Board wants me to give a report on any matters concerning either the Ethics investigation or myself it will be in Executive Session because I am bound by statute not to discuss it.

Mr. Lawlor said the contents of what was offered to Jon Fasana have been made public, and Mr. Joyce said not really, not officially because we haven't released the minutes of the Executive Session. Mr. Lawlor said there's no aspect of this settlement that has not been made public - the whole idea of Executive Session is to preserve the secrecy of a strategy so we're not sharing. That's not where this matter is at right now - this matter is at figuring out whether we have the votes to complete what we said we were going to do or whether we don't have the votes - that's an issue concerning Bill's ability to vote - or ability to not vote.

Mr. Harrington said that the matter before us is there was a vote that was made public. When I came before the Board Monday night you asked me to meet with Ethics and come back with one or two things - to do whatever I could -I thought it was my role to meet with Ethics and come back with a written response from Ethics relative to the vote that was taken by this Board or that we make a determination of two things: one, if the vote was declared incorrect by Bill Dalton voting then that vote would be rescinded and we would be back to not having a settlement and it is now back to Executive Session and would now have to negotiate and now decide where do we go from here. One issue we would raise at that point is whether or not there would be another vote - just to clarify something my report indicates that Ethics has upheld the original vote.

Mr. Lawlor asked what need of Executive Session if we don't need to re-vote. Mr. Harrington said because he was instructed by Ethics to come back to the Board because we have an agreement that is not to issue the check until we have had some response from them - I now have that response. I have a letter from Ethics in writing but it concerns Bill Dalton personally. I have my own letter to the Board outlining the agreement that I worked out with Ethics but want to make sure that you are comfortable being in Executive Session.

Mr. Blomgren said he thinks this is a continuing part of the strategy with respect to settlement or no settlement with respect to Jon Fasana and as such he feels comfortable discussing it in Executive Session and obviously when we come to our decision we move forward one way or the other.

Mr. Lawlor said he doesn't feel that the integrity of our position is compromised by discussing it openly and that's the whole function of Executive Session. I think the integrity of this entire process is being compromised by the manner in which we've acted and I'm trying to shed some light on what's going on so the public doesn't see the perpetual shroud over us.

Mr. Brem asked why don't we just deal with the Executive Session issue and then open it up and go into open session and Mr.Lawlor answered that Mr. Harrington feels there is no component of needs to be done that he thinks should be done in public.
Mr. Blomgren said that's the problem we find ourselves in - it's public and it's Executive Session.
Mr. Brem said we're dealing with an agreement that's already been made public - that part of it I think should be in Open Session - there is nothing to hide on that agreement. Mr. Joyce said that technically we have not released that information.
Mr. Blomgren said we did release the settlement although not the minutes and that was predicated upon the vote that was taken.
Mr. Brem said as it stands right now that issue is no longer on the table and Mr.. Harrington has some things he wants to discuss with us in Executive Session.

Mr. Harrington said no, so that we understand, we met on April 25 and had Ex. Sess. because someone had filed a complaint with the Ethics Commission and the question has been raised as to whether the vote of the BOS should be rescinded because Mr. Dalton is in conflict. They then requested that the BOS or the Town until they had an opportunity to do an investigation.

Mr. Brem said so things that have to be behind closed doors

has to do with this investigation and nothing else. Let's do that part of it, then - I don't want to hear any more than I have to about Bill Dalton's personal conflict.
Mr. Harrington said that during the past week he was directed to come back with some direction - whether we needed to take another vote. Today he has reached an agreement with the Ethics Commission through Steve Fateau, Enforcement Division Chief as follows:

1. Ethics tentative view is that Dalton falls within the purview of agency as set out in Section 20 of chapter 268A (Firefighter employed by Department of Public Safety)

2. Sufficient degree of uncertainty as to this conclusion to warrant treating this matter prospectively only.

3. Therefore the vote need not be rescinded.

4. The check may be delivered on Friday to Attorney Shanahan

5. William Dalton shall agree to refrain from any deliberation on any matter concerning the Public Safety until a written opinion is issued by the State Ethics Commission.

6. Town Counsel's 268A opinion on Bill Dalton shall be submitted promptly to Stephanie Lovell, Legal Division Chief for a more definitive position on the conflict issue.

7. Town Counsel shall conduct the necessary discovery of all Town files pertaining to the Public Safety reorganization and submit all relevant materials to the Legal Division Chief.

Mr. Harrington continued that historically, everything is open and his position as Town Counsel is to look at where we were. He's not taking sides with any Selectman or any individual. He sees two things: 1. We've come to an agreement with Fasana and really into a settlement deadline and we are ethically bound by it; and 2. The only way to get out of this without its costing the Town additional money or further litigation is to come to a resolution tonight.
The resolution tonight can be done in two ways: 1. Ethics would allow us to issue the check and face all conflict issues so it won't happen again; or 2. if one of the two members voting against the settlement would somehow change his vote, which would have to be explained politically and could be politically embarassing.
In an effort to avoid this position I worked with Ethics to give me the opinion that I asked for - a payoff for them giving me this is that I submit everything to them so they can come out with a final opinion so we know exactly where we stand in the future. What I heard at the last meeting was that the Board wanted a way out of this and there was no

possibility that you would go back and hire Fasana and have him come and fill the position. You're really in a position where you have to clear the decks - for the good of the Town you have to get that settlement out there and done with and then have to face the conflict issue on the part of Bill Dalton.
He told Ethics he needed something to show the BOS but the complainant gets the letter saying that we can release the check and we can't get a copy of that letter. The letter that was sent to him was re his opinion to Bill Dalton and under the statute is confidential. You have a right to come to Town Counsel for an opinion but it will be confidential. The letter that he is turning in to the Board has one stipulation that Bill Dalton has to agree to not participate voluntarily on any issue concerning public safety. He will submit his letter as Executive Session and he would have to review all the minutes and the BOS would have to vote to release them.

Mr. Harrington continued that as a general rule when we meet in Executive Session at some time in the future the Board can vote to release the minutes when the issue is no longer pending. A vote to release the minutes at this juncture is something I wouldn't necessarily recommend to the Board - let some period of time transpire. No one has ever pushed us to release executive minutes and if we do so now, so quickly after the settlement, every time we go into Executive Session they'll be hounding us for minutes immediately.

Mr. Lynch said with the check going to Jon Fasana tomorrow obviously Fred Mansfield and Jean Sullivan will be asked if it has gone out, and questions to him and Board members will be "So Ethics has decided there's no conflict".

Mr. Harrington said that what has been discussed outside Executive Session by anybody in the Town relative to anything that's been going on, articles in the newspapers and scuttlebut around Town - there is nothing, people have been guessing, and if anyone has said anything you've violated the Executive Session. We had a vote and issued the check - there's no discussion.
Mr. Joyce asked Mr. Harrington is it his recommendation that the minutes of the meeting where we voted the settlement should be held. Mr. Blomgren and Mr. Joyce both said they don't recall releasing any Executive Session meetings and Mr. . Lynch said we haven't. Mr. Harrington said that generally you would release them a long time from now.

Mr. Blomgren said that he and Town Counsel have worked out a statement that summarizes what we want to release.
Mr. Harrington said there is a public need to know and also a right to know but there is also the Town's right to go into Executive Session because we have the right to do so, but by exercising our right we will be criticized by mostly the

media.

Mr. Lawlor said the whole concept of ethics and the Ethics Commission and Bill Dalton is one which I think I have a different slant to the statute. I don't view it as a privilege of Bill Dalton's - I don't view the issue of a conflict as a matter deserving of secrecy. If any of us has a conflict it is our obligation to wear that disclosure on our sleeves and if we are questioned on it, we don't have the right to cloak ourselves by saying no comment - it should have been run up a flagpole, and that's not being done here.

Mr. Harrington said we've been over this, and other Boards and I have faced it before - the only person who has the right to seek an opinion from myself or the Ethics Comm. is the one who thinks he has a problem and both Ethics and my office under the statute are bound to confidentiality. When I write a letter as Town Counsel I am bound to keep confidentiality until I deliver it to the person who requested it. This is a question of enforcement, and the person who filed the complaint is also protected by the Ethics Comm.

Mr. Lawlor said that Bill Dalton deserves clarity from Ethics and from the Town as to what he may or may not do, and Townspeople who have concerns about this deserve the same clarity. Mr. Harrington said that because Bill Dalton has asked for that, and because of the complaint to Ethics, Ethics and I under the statute will go further with that and it will now be a joint effort.

Mr. Brem said the only thing now public is the letter saying that Bill is not in conflict, yet he's not sitting here. Mr. Harrington said that no one has said he can't sit here, but he's agreed not to until we have the opinion.
Mr. Brem asked if he doesn't have to explain why he's not sitting and Mr. Harrington said No. Mr. Joyce said he has concerns - can Mr. Dalton sit on Town Manager evaluations.

Mr. Lawlor said he's read 268A, and the torch that he carries has nothing to do with Bill Dalton personally, it's that the integrity of this Board has gotten kicked around in the last two weeks over this question of Ethics - that is bothersome to me and I don't want it to reoccur.
Mr. Harrington said he has every intent of broadening the issue of what Bill Dalton can and cannot vote on.
Mr. Blomgren said we need clarity under 268A and Mr. Harrington said that two people at Ethics have told him that he's not in conflict on this issue but the people at Ethics would not look kindly at Bill Dalton sitting in on the Town Manager's evaluation - that's a different set of circumstances.

Mr. Brem said to take Mr. Lawlor's comments one step further

- so that check goes out and Bill Dalton still hasn't sat here - the integrity of the BOS is getting beat up in the press and deservedly so. We keep coming into these Executive Sessions and have nothing to tell anyone - we resolve it and still can't tell anyone - we're just going to keep this issue going on until it is resolved, and that could take months. The Board is going to keep everything under this secret cloud for months - I think we should tell them what has happened, that there has been an investigation and is now going to be an enforcement investigation. A settlement has been reached. Mr. Joyce said we've released the check - let the public assume what they want about it, and Mr. Blomgren said that a lot of what has appeared has been speculative.

Mr. Harrington said if the Board is questioned on conflict, he is the only one who should be questioned and he has the right of confidentiality. When he writes an opinion he has to file a copy with the Town Clerk.
Mr. Blomgren told Mr. Harrington that he's done what the Board asked him to do and given us a report. You've listened to the Board about the concern that we've had about a colleague voting on certain matters and you've indicated to us that you'll address those matters as part of your confidential discussions with Bill. Mr. Blomgren continued that like all of you he doesn't want to sit in on discussions like this again when there is a question of whether a person can vote on a particular issue.
Mr. Lynch questioned if a matter goes to the Ethics Commission and the facts of the case are misrepresented can Ethics reverse itself. Mr. Harrington said that even his opinions are based upon written facts that are submitted to me and I'm not required to look beyond them. However with Ethics in this case one condition agreed upon is that I will now investigate the facts and I will now get together with Mr. Lynch and get all the documents I feel are relevant to this matter so they're not just relying on what he says.

Motion by Mr. Lawlor that the minutes of the meeting of April 19, 1994 upon issuance of the $25,000 check to Jon Fasana and seeing a copy of the signed release from Jon Fasana, seconded by Mr. Brem for discussion. After discussion Mr. Blomgren asked that Town Counsel review these minutes and we will put the acceptance on the agenda for May 2nd.

All Board members expressed concern as to how these emergency sessions look to the public and Mr. Harrington said that the next time they ask for an Executive Session to check with the Town Manager and Mr. Harrington's office.

At 7:00 p.m. motion by Mr. Joyce, seconded by Mr. Brem, to go out of Executive Session. Roll Call vote was as follows: RPJ-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

For the Board of Selectmen, by

Judith E Carter

Executive Session of the Board of Selectmen held Monday, June 6, 1994 at 10:10 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V., Lawlor. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present. The **purpose of the session was to discuss collective bargaining, real property and potential litigation.**

Mr. Lynch discussed the **Police Contract** and Mr. Dalton said he will stay to hear the discussion since the Public Safety Department is no longer in existence and the Fire contract has not been reopened.
Mr. Lynch said they met last week in an attempt to settle and he met this afternoon with Union President Pat Daley. The Agreement (attached hereto and made a part hereof) is basically the Factfinder's recommendations, with one modification - retroactive pay. We will pay one-half this fiscal year - $60,000 in the next 3 weeks - and the other half by September.
Minimum manning has been eliminated, and future employees hired after June 30 will get 5 days for a vacation week, not 7. Sick time buyback has been frozen at 135 days maximum and no new employees will be eligible. Longevity is flattened out after 10 years at $1500 up to a max of $3750 after 25 years.
The educational incentive has been changed, paying only $1,000 per year for an Associates degree for those on the payroll as of June 30, 1994.
Mr. Joyce noted that we have lost a couple of good patrolmen to Towns that have the Quinn Bill, which pays more for degrees, but we are still attracting college graduates.
Compensation will be 3.5% retro to 7/1/92; 3.5% retro to 7/1/93 and as of 7/1/94 a sixth step will be added, so base salaries will range from $22,660 after 1 year to $35,860 maximum after 6 years.
This was the agreement he reached with Pat Daley and he is taking it to the Union for a vote.
Mr. lynch told the BOS that longevity and sick time buyback could amount to $100,000 but his concern is paying the retro - we can't afford it all in one year so it makes sense to do it now in 2 fiscal years. Morale is getting worse among the patrolmen and the contract should be settled.

Motion by Mr. Joyce, seconded by Mr. Brem, **to approve the recommendation of the Town Manager and settle with the Police Union** as previously discussed and per the factfinder's report. Roll Call Vote was as follows: RPJ-Aye; WFD-Abstain; JAB-Aye; PVL-Aye; RAB-Aye. **Motion passed with 4 in favor, 1 abstention (WFD).**

Mr. Dalton left the room at 10:30 p.m.

Mr. Lynch said that he has discussed the **24 hour firemen's shift with the union at their request** a month ago and again

last week. They are asking for 24 hours on, 24 hours off, 24 on and then 5 days off. This means they would be working app. 90 days per year. Towns that have done this have seen a great drop is sick time abuse. Mr. Lynch said that their average pay now is $40,000 plus longevity and he denied the request.

Mr. Dalton rejoined the meeting.

Mr. Lynch told the Board that he has had an offer of a **donation of land at Southwell Field,** property owned by Raymond Carye, which is in a flood plain and taxes are app. $7,000 per year. 15 - 20 acres is considered Farmland and Mr.. Carye wants to give the land to the Town because he needs major tax write-offs. We could use it for recreation areas and could eventually have about 60 acres in that area. Motion by Mr. Brem. seconded to Mr. Lawlor, to accept the offer. Mr. Blomgren asked the Town Manager to bring a proposal back to the Board and Mr. Brem withdrew his motion.

At 11:15 p.m. motion by Mr. Joyce, seconded by Mr.Dalton, to adjourn. Roll Call vote was as follows: RAB-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

MEMORANDUM OF AGREEMENT
BETWEEN
THE TOWN OF CHELMSFORD
AND
INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS
LOCAL 341

JULY 1, 1992 - JUNE 30, 1995

WHEREAS, the TOWN OF CHELMSFORD (the "Town") and the INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 341 (the "Union") have negotiated for a new Collective Bargaining Agreement (the "New Agreement") to succeed the Collective Bargaining Agreement previously scheduled to expire June 30, 1992 (the "Former Agreement"); and

WHEREAS, the Town and the Union have reached an agreement;

NOW, THEREFORE, the Town and the Union agree that the New Agreement shall consist of the provisions of the Former Agreement, except as modified herein:

1. Article 13 - Compensation.
Article 13 will be revised as follows:

(a) Effective July 1, 1994, a sixth step will be added to the pay schedule as follows:

	ANNUAL SALARY
Base Salary	$22,660.00
1. After 1 year	$24,429.51
2. After 2 years	$25,654.83
3. After 3 years	$26,870.22
4. After 4 years	$28,095.59
5. After 5 years	$29,311.19
6. After 6 years, maximum	$35,860.00

(b) Patrol officers shall receive a 3.5% wage increase effective and retroactive to July 1, 1992.

(c) Patrol offices shall receive a 3.5% wage increase effective and retroactive to July 1, 1993. This payment is to be made on or before September 30, 1994.

2. Article 14-A - Federal Compensatory Time.
A new Article 14-A, entitled "Federal Compensatory Time," will be added as follows:

A patrol officer will have the option of taking Federal compensatory time in lieu of payment for overtime worked in accordance with Section 553.25 of the Fair Labor Standards Act Rules and Regulations.

3. Article 15 - Hours of Work.
Article 15 will be modified by deleting paragraphs 1(a) and 3 in their entirety, and the remaining paragraphs of the Article will be renumbered appropriately.

4. Article 20 - Vacation.
A sentence will be added to Article 20 to read as follows:

Effective July 1, 1994, notwithstanding anything in this contract to the contrary, a "week" of vacation shall be identified as five (5) work days. For employees on the payroll as of June 30, 1994, a "week" of vacation will continue to be defined as seven (7) work days.

5. Article 30 - Sick Leave.
The first three paragraphs and the sixth paragraph of Article 30 will be deleted in their entirety and new paragraphs will be inserted to read as follows:

1. Annual Accrual. Each employee may earn and accrue fifteen (15) days of sick leave per year (1 1/4 days per month).

2. Maximum Accrual. Unused sick days may be accumulated from year to year up to a maximum of one hundred thirty-five (135) days.

3. Buy-Back and Use.

(a) Buy-Back. An employee on the payroll as of June 30, 1994 shall have his/her accumulated sick leave time frozen at its accumulated time and dollar value as of July 1, 1994. Such time and dollar amount as of July 1, 1994 will be bought back by the Town at the time of the employee's retirement or death. "Retirement" shall be defined in accordance with M.G.L. Chapter 32.

Any unused accumulates sick days up to a maximum of one hundred thirty-five (135), valued as above, shall inure to the benefit of the heirs or beneficiaries of any employee upon his/her death.

(b) Accumulation. An employee may continue to accumulate sick days beyond the number of days frozen, subject to the limitation of this Article, but may not have any days in excess of the number of days frozen bought back. For buy-back purposes, accumulated sick days may not exceed one hundred thirty-five (135) days.

(c) Notice. An employee must give the appointing authority six (6) months notice prior to an ordinary retirement in order to invoke sick leave buy-back, as set forth in this Article.

(d) Use. An employee may use sick days from the frozen buy back accumulation and will have the dollar value of buy-back reduced in accordance with his/her daily rate of pay. An employee utilizing sick days from the frozen buy back may earn sick time back up to his/her frozen buy-back accumulation. In no event shall an employee be entitled to receive more in time or adjusted value than that which exists and is frozen as of July 1, 1994.

(e) Value. The dollar value of accumulated sick time that is available for buy-back shall be adjusted each fiscal year by the contract established wage increase, if any. On or about January 15 of each year, the Town shall provide affected employees with a statement of value of accumulated sick time that is available for buy-back.

(f) Eligibility. Only those employees on the payroll as of June 30, 1994 shall be eligible for sick leave buy-back. Those employees who were not on the payroll as of June 30, 1994 shall not be eligible for sick leave buy-back.

6. Article 32 - Longevity.
Article 32 will be deleted in its entirety and the following inserted in its place:

Longevity payments shall be provided to each regular full-time employee covered by this contract as set forth below:

10-15 years	$1,500 per year
16-20 years	$2,250 per year
21-25 years	$3,000 per year
After 25 years	$3,750 per year

The maximum increment shall be received at the completion of twenty-five (25) years of employment. The longevity increment shall in no way be considered as part of the salary rate for Civil Service purposes. The longevity increment shall be included for all applicable purposes in determining any and all rights under the Middlesex County Retirement Fund.

Only those employees on the payroll as of June 30, 1994 shall be eligible for the provisions of this Article. Those employees who were not on the payroll as of June 30, 1994 shall no be eligible for the provisions of this Article.

7. **Article 33 - Educational Incentive.**
Article 33 will be amended as follows:

(a) The following line will be inserted after the first line of the educational incentive stipend plan:

Associates Degree in Law Enforcement....$1,000 per year
Effective July 1, 1994

(b) The following paragraph will be added to the Article:

Effective July 1, 1994, the educational incentive stipend for an Associates Degree in Law Enforcement will be $1,000 per year. Only those officers on the payroll as of June 30, 1994 shall be eligible to receive a stipend for an Associates Degree. Those officers who were not on the payroll as of June 30, 1994 shall not be eligible to receive an educational incentive stipend for an Associates Degree.

This Memorandum of Agreement is subject to ratification by the Town Manager and by the Union, and is subject to appropriation by Town Meeting.

This Agreement has been duly executed by the authorized representatives of the Town and the Union.

TOWN OF CHELMSFORD

By: _____
Bernard F. Lynch
Town Manager

Date: _____

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 341

By: _____
Patrick W. Daley, President

Date: _____

Executive Session of the Board of Selectmen held Monday, June 13, 1994 at 10:55 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Bernard Lynch, Town Manager and Judith Carter, Adm. Asst. were also present. The reason for the session was **contractual purposes.**

Mr. Joyce asked with his contractual arrangement when does **Town Manager Lynch** have to be notified if he is not going to be reappointed or his **contract** renewed, and Mr. Blomgren said under Section 2, para. 2A, by July 1, 1994.

Mr. Lawlor said this is a multi-step process - his employment goes until the end of December. If you want him to leave by the end of December you need a 4 - 1 vote of the BOS. If you want to get him out by December 31 you must give him 6 months notice. You may give him a contract with different terms. The only vote that should be taken now is if we're not going to renew his contract, which would require a majority vote.

Mr. Joyce said we should have Mr. Lynch's proposal a week to 10 days in advance.

Mr. Lawlor said mileage vs. a Town car? The majority voted that last year. Mr. Lawlor asked Mr. Dalton if there is any portion of this discussion that he doesn't want to take part in and Mr. Dalton said that the Ethics Commission is still looking into his possible conflict of interest situation. Mr. Lawlor said to Mr. Dalton that he assumes if Mr. Dalton is sitting here that it is Ok.

Mr. Lawlor said if anyone has any issues, including Mr. Lynch, to bring them up now.

The Town Manager's evaluation will be put on the agenda for the July 18th meeting.

At 11:30 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL:-Aye; RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, August 8, 1994 at 9:15 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Administrative Assistant Judith E. Carter was also present. **The purpose of the session was to discuss the contract to be offered to the Town Manager.**

Mr. Blomgren asked all members to have their evaluations completed by next Monday, or sooner.

Mr. Lawlor and Mr. Joyce have met twice to look at the existing contract and to determine an expiration date and any changes to be included in the new contract. Mr. Dalton said we shouldn't negotiate before we evaluate and Mr. Brem said he agrees.

Mr. Lawlor told the Board that he and Mr. Joyce have agreed that the contract should run with the Fiscal Year but have not agreed on the duration of the contract and the compensation. Mr. Lawlor said that he desires a contract that has a finite, definable termination date. Under the Charter now at the end of his contract he continues indefinitely.
Mr. Lawlor is recommending a contract that has an identifiable beginning and ending, and would require a vote of a majority of the BOS to extend employment for a period beyond that date. This would enhance our bargaining position and doesn't go against the Charter. If he would accept this, after the expiration date of the contract he would no longer be employed by the Town unless he has at least 3 members vote to continue his employment. This would be an employment contract, not a compensation package.
Mr Blomgren said the contract will be written by Town Counsel. Mr. Lawlor said he thinks the Town Manager would only accept a contract if it conforms to his goals and he wants a 2 1/2 year contract. If he doesn't accept a contract approved by the BOS we can impose employment terms until further notice.
As a matter of policy the BOS will ask Town Counsel to keep the contract on a disc so it can be updated when needed.

Mr. Blomgren said we're not looking for a major change from where we are today - we want what's right for the Town, right for the BOS and right for the employee. Mr. Brem said that so far the salary has been done annually and Mr. Dalton said it is not good for the BOS to drag this out. Mr. Brem said he agreed. Mr. Dalton suggested that the BOS meet in Executive Session next Monday night after the TM evaluation to resolve this issue but it was decided to meet on Thursday, August 18 at 7:15 p.m. for this procedure.

Mr. Blomgren said he would like a 6-month contract to get it onto a Fiscal Year basis but Mr. Brem said we have to make the offer palatable to the Town Manager and have to assume that there is a limit to what he will agree to. All agreed that a 4% increase will not be offered.
Mr. Blomgren will talk to Town Counsel to ask the legality of Mr. Lawlor's proposal and also to have a draft contract for us by August 18th.

At 10:05 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, August 18, 1994 at 7:15 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Judith E. Carter, Adm. Asst. and Town Counsel James Harrington were also present.

At 7:15 p.m. **motion by Mr. Joyce, seconded by Mr. Lawlor, to go into Executive Session to discuss contractual matters, litigation and rulings from Town Counsel.** Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; and RAB-Aye.

Town Counsel Harrington gave the BOS some rulings they have asked for and discussed pending contracts and litigation. He will update the BOS on all pending litigation at a future Work Session.

Mr. Harrington left the meeting at 7:40 p.m.

Mr. Blomgren and the members then went over the summary of the proposed contract for the Town Manager.

#'s 1 and 2 - renewal and severance. Motion by RPJ, seconded by WFD, to reduce severance pay to 3 months. It was questioned when this went to 6 months - originally it was 3. Mr. Blomgren suggested a compromise of 4 months.

#1 - contract renewal notice period of 6 months - motion by RPJ, second PVL, to approve. Roll Call vote - RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

#2 - severance pay - motion by RPJ, second WFD, to limit to 3 months. Roll Call - RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Nay; RAB-Aye. Vote was later changed to 6 months - Roll Call was - RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye; RAB-Aye. Motion passed.

#3 - compensatory time - the Charter says No, contract says Yes. Motion by RPJ, second WFD, to delete. RAB said the manager does not bill the Town for this time and his role is 24 hours per day, 7 days per week. Roll Call vote on the motion to delete the language - RPJ-Aye; WFD-Aye; JAB-Nay; PVL-Nay; RAB-Aye.

#4 - 3 weeks vacation per year - Roll Call vote -all Ayes.

#5 - vacation may be carried over - motion by JAB, second RPJ, to cap as of 12/31/94, with no right of pre termination cashout. Roll Call vote - all Ayes.

#6 - sick leave earn rate of 1 1/4 days per month; **#7 - cap at 120 days; #8 - sick leave buy-back capped at 93 days** as of 7/1/93; **#9 - personal days at 3 days per year;** Roll Call vote all Ayes.

#10 - professional dues and subscriptions for ICMA, ASPA, MMA

motion by JAB, second by PVL, to delete ASPA. Roll Call vote - all Ayes.

#11 - mileage reimbursement of $300/mo. - motion RPJ, second WFD, to delete and allow actual mileage under prevailing IRS code. Roll Call vote was: RPJ-Aye; WFD-Aye; JAB-Nay; PVL-Nay; RAB-Aye;

#13 - compensation - after many different ways of approaching, motion by JAB, seconded by PVL, that effective January 1, 1995 an increase of 2 1/2% will be added to his base of $75,500, plus his current mileage reimbursement of $300 per month will be added to his salary for a total of $81,000 per annum, and get real and actual mileage reimbursement as provided by the prevailing IRS code. Roll Call vote: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye; RAB-Aye. 3 in favor, 2 opposed -motion carried.

#14 -long term disability policy @ $1900 per year; #15 - opportunity to teach at U. Lowell; #16 - shared medical expenses (60/40) - motion by RPJ, second WFD, to approve these. Roll Call - all Ayes.

#12 - length of contract - motion by JAB, second PVL, to make length of term 2 1/2 years. Mr. Lawlor said we want a manager who does well to know that he has security and this is a good sound way for us to go. Mr. Brem said it is beneficial to the Town to give him long term goals. Mr. Joyce said that 2 1/2 years encumbers the Town too long. Mr. Blomgren gives the Town more flexibility in managing the Town's assets. Roll Call vote: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye; RAB-Aye. Motion failed 3 - 2.

Motion by PVL, second JAB to grant an 18 months contract and amend the severance period from 3 months to 6 months. Roll Call vote: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye; RAB-Aye. Motion passed 3 - 2. Mr. Lawlor commented that if we're giving him less security than he has now - 18 months rather than 3 years - this is a trade-off between the terms of the agreement and length of severance pay.

The Board then went over the present contract, changing language and incorporating decisions reached tonight.

Motion by PVL, seconded by JAB, to present this contract to Mr. Lynch. Roll Call vote: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye; RAB-Aye. Vote was 3 in favor, 2 opposed.

Mr. Blomgren asked RPJ and WFD to reconsider and make this vote unanimous but they would not.

Mr. Blomgren said we should have the completed document by late Friday and he will present it to Mr. Lynch and ask him to sit down with the Board. Mr. Brem offered to integrate

the job descriptions we have asked the Personnel Coordinator to obtain.

At 10:20 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

For the Board of Selectmen, by

Judith E. Cate

Executive Session of the Board of Selectmen held Monday, August 15, 1995 at 9:30 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Administrative Assistant Judith Carter was also present.

Town Manager Bernard Lynch joined the meeting to give the BOS his proposal of what he would like in a new contract. Mr. Lynch said he is asking for compensation of $79,900 based on what he has accomplished in the past year and an increase in vacation days from 15 to 20. He gave the BOS an MMA survey done on Town Manger's salaries, based on population, budget and geographic location. He also noted that the premium on his long term disability policy is $1900, not the $2300 as indicated in the slide presentation.

Mr. Lynch then left the meeting.

Mr. Blomgren said that he has heard back from Town Counsel that the idea Mr. Lawlor had at the last meeting - a finite end to the contract -won't work; the Charter takes precedence over any employment contract. He added that on the question of strong vs. weak Fire Chief, the Charter has created a weak chief according to the Ipswich decision. Town Counsel Harrington is coming to the meeting on Thursday. Mr. Lawlor commented that if the charter is changed to indicate a definite term for the Town Manager, we would have to have the Charter Commission re-do the charter - it now indicates an indefinite term.

Mr. Joyce said the major item for the BOS to settle is the term of the contract and Mr. Blomgren and Mr. Lawlor both said that language also needs tightening up and we need to place caps on some items.

Mr. Lawlor said that as a Subcommittee he and Mr. Joyce agree that we should go with the Fiscal Year rather than Calendar year for a future contract but not on the term - it ranges from 6 months to 18 to 30 months. Mr. Lawlor continued that the Charter is in place and we have to work with it. He thinks that RAB has increased our credibility with the evaluation process, that it is largely very strong and positive, and what we do should be consistent with his evaluation. Six months is not consistent - 2 1/2 years is more consistent. After discussion the consensus was an 18 month term for the contract.

Mr. Lawlor asked what are our goals as a BOS for the Town - should be the best deal - flexibility - retention of Mr. Lynch and a demonstration of commitment.

Mr. Joyce said we should transfer his $3600 vehicle allowance to his salary to help his pension, pay only real and actual mileage and 4 weeks severance pay, since he only has to give

the BOS 4 weeks notice.
It was agreed that there would be no increase in the number of vacation days, that he could not accrue more than 1 week in any one year and that his vacation time now accrued would be capped at 37 days. He would be expected to use his 15 days per year and if he wanted more, tap into the capped days.

Professional development - keep ICMA and MMA - attend meetings as usual and conferences with consent of BOS and 2 weeks notice.

Compensation time is in the present agreement - let him ask the BOS for it.

Vehicle allowance - most Town Manager's get cars and real and actual mileage. Mr. Joyce recommended that when the Police Dept. gets new cruisers next July that the Chief give the TM the best of the year-old ones.

Mr. Lawlor said that if firing is what the BOS wants to do, then offer him a 6 month contract. Security has real value and there has to be a correlation between his evaluation and what we offer him. It was agreed that 18 months would be offered.

Mr. Lawlor recommended going with the 18 months, with 6 months severance, a cap on vacation, no change in pay, no car allowance except actual mileage, until a vehicle becomes available.

Mr. Blomgren said he likes the fact that the BOS is compromising, and he **recommends** 18 months, salary increase of 2 1/2% or $2,000 (OK with PVl and JAB),leave mileage alone this year, cap on vacation and shape and mold language.

Mr. Joyce wants the record to state that he will not vote for any raise this year.

Mr. Blomgren said that 3 votes is a consensus of the BOS and there seems to be a consensus on: base salary, severance, vehicle allowance stays intact and for term - the asked for contract is cut in half.

Mr. Brem said that Mr. Blomgren could prepare a good table or graph for the media showing the savings and costs of the contract. Mr. Joyce said he will not vote on the proposal as it stands now.

Mr. Blomgren said that Mr. Lynch has made a proposal and we're making a counter proposal. Mr. Lawlor said that if the BOS goes with the proposal that Mr. Blomgren has laid out then that is his own last position, and he will hold the line here. Mr. Brem also goes along with RAB's proposal.

Mr. Brem summed up the session, noting that with 3 being a consensus the BOS has agreed on 9 out of 14 items:

<u>No Change</u>
Personal Days - 3
Vacation Days - 15
Long Term Disability - same
Approval to teach at U.Lowell - same
Sick buy-back freeze as of 7/1/93 (93 days)
Medical Insurance 60/40

<u>To Be Changed</u>
Professional development approved by BOS
Vacation with no carry-over - freeze as of 1/1/95
Term to expire on Fiscal Year basis

<u>To Be Worked Out</u>
Salary - 2 1/2% consensus
Term - 18 months "
Vehicle allowance - remains intact
Severance - 6 months

Mr. Blomgren asked BOS members to go over the marked up copy of the contract before Thursday's meeting. Mr. Joyce asked to see before and after numbers on the proposal.

At 11:20 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; RLAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, September 12, 1994 at 6:30 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Mr. Lynch told the Board that he is not happy with some portions of his contract: the 18 month term, when with the evaluation instrument that was used the fact that he came out with a 4- indicated that the BOS felt he was doing a good job; the Town's financial shape, his relationships with Boards and Departments and the goals he has attained he would have preferred a 3 year term.
Vacation - he does not care for the manner in which it was written- he spends 50 - 60 hours a week in his office and never stops being Chelmsford's Town Manager. His work is very intense and he needs to take time off sometimes.

Mr Dalton commented that if they took out the evaluations of the two former selectmen his rating would have maybe been a 3, but said that he thinks Mr. Lynch survived it pretty well and he himself may have been overly critical.
Mr. Joyce asked why the changes he had underlined were important to him and **Mr. Blomgren** said the previous contract had several different addenda.
Mr. Brem said he doesn't like the whole whereas section but Mr. Dalton said this is normal contract language.
Mr. Joyce asked why did former Boards allow him to accrue so much vacation time and he thinks he should take it.

Mr. Blomgren said the contract we are referring to was transmitted to him on August 31, 1994 with copies to all BOS members and is between the Town and the Town Manager effective September 1, 1994. The number of vacation days to be capped will be put in on December 31, 1994.
Motion by Mr. Lawlor , seconded by Mr. Joyce, to support the contract as presented. Mr. Joyce asked what has happened without the consent of the Town Manager and Mr. BLomgren said this is more mutuality, that both parties have to agree. Mr. Lawlor said he has never seen a contract where the pay can be lowered. Mr. Lawlor asked Mr. Dalton what would make him change his mind and support the contract, and Mr. Dalton said severance pay, we shouldn't someone for doing a bad job. Mr. Lawlor said that this provides a level of insulation from reactionary behavior on the part of the Board and gross or willful negligence on the part of the employee.
Mr. Joyce said there is no mutuality here, Mr. Lynch can give us 4 weeks notice and we have to give him 6 months. Mr. Blomgren said we have 2 people who could step in to the budget process while we are looking for a replacement, but he would have preferred 4 months severance, not 6.

Roll Call Vote on Mr. Lawlor's motion to support the contract was: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye and RAB-Aye. Motion

passed.
Motion by Mr. Brem, seconded by Mr. Lawlor, to ask for a unanimous vote in favor of the contract. Roll Call vote on this motion was: RPJ-Nay; WFD-Nay; JAB-Aye; PVL-Aye and RAB-Aye. Motion failed, and we cannot announce that the vote was unanimous.

Motion by Mr. Joyce, seconded by Mr. Dalton, to release the minutes of this year's contract negotiations with a correction on page 2 of August 18: the vote was 2 - 3, not 3 -2 in the second paragraph. Roll Call vote on the motion to release the minutes of the meetings of Executive Sessions of August 8, August 15 and August 18, 1994 was: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

At 7:07 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn to Open Session. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

For the Board of Selectmen, by

Executive Session of the Board of Selectmen held Monday, September 26, 1994 at 6:30 p.m. Members present were: Roger A. Blomgren, Peter V. Lawlor and William F. Dalton. Bernard F. Lynch, Town Manager and Judith Carter, Adm. Asst. were also present.

Mr. Blomgren said that re the **order received on the dog Nickles,** that we should send a letter to Town Counsel saying that we spent so much time trying to deliberate we are sorry that the settlement did not come before the BOS. Mr. Lawlor said that we are legally bound to this document and Mr. Blomgren said he still would like a response from Town Counsel.

Mr. Blomgren said that in Executive Session we need to deal Town Counsel's contract, BOS/TM goals and Charter changes for the Warrant.

Mr. Blomgren passed out his **proposed changes to the Town Counsel's contract** and new numbers as of Sept. 14 on TM/BOS goals.
He said that the **objective for goals for FY94/95** are: 1. understand what the goals means; 2. specific actions, and 3. measurable results.

Mr. Blomgren said that Mr. Harrington should give us a list of our **proposed charter review changes** that: 1. can be done at Town Meeting and 2. would need a Charter Commission to change. Mr. Lynch said that most charter changes can go through Town Meeting as amendments, and that only changing the term and tenure of the Town Manager's appointment requires a new commission.

Mr. Blomgren asked that when any one member corresponds with Town Counsel to let the other members know.

Mr. Lynch said that to reinstitute the Charter Commission a question has to be put on the ballot, since we can only amend the Charter in the manner in which we adopted it. Mr. Blomgren said this is also his understanding and wants a question on the ballot in April: "Do you support the reinstitution of a Charter Commission?"

At 7:00 p.m. motion by Mr. Dalton, seconded by Mr. Lawlor, unan. to adjourn to Open Meeting. The Board never actually went into Executive Session.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, October 24, 1994 at 6:45 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch and Adm. Asst. Marian Currier were also present. The **purpose of the session was to discuss Town Counsel's contract.**

Mr. Blomgren said he has given a copy of the proposed contract to each member and what Mr. Harrington has given back to him is basically what we offered - 1 year; 2 1/2% increase (he wants 5%); 800 hours OK, wants $85/hr, not $75; he had told Mr. Harrington that the BOS would not go for 5%. Mr. Joyce said he wants to wait to vote at the next meeting- he wants to read Mr. Harrington's 268A letter.
Mr. Lawlor commented that the letter from Ethics doesn't address the issues that we are concerned about - that it isn't meant to be a blanket letter addressing all 268A issues and Mr. Brem agreed. Further discussion on Mr. Harrington's potential conflicts and no vote on the contract was taken.

At 7:00 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to go **out of Executive Session.** Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB- Aye.

For the Board of Selectmen, by

Marian D. Currier

Executive Session of the Board of Selectmen held Monday October 3, 1994 at 9:40 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the meeting was to discuss **collective bargaining and pending litigation.**

Mr. Lynch said that the BOS may read in the paper that one of our **police officers** has been the subject of disciplinary action because he was performing personal business on Town time. The action was in excess of what is allowed by his immediate supervisor. Mr. Blomgren said that there could be potential criminal action pending.

Mr. Blomgren said that he has read through the minutes of last September and there were **no goals set for Town Counsel.** Mr. Lawlor said that we can proceed tonight by deciding whether or not we want to keep Mr. Harrington as Town Counsel and if we do, we should evaluate him.
Mr. Lynch said he thinks that Mr. Harrington has adequately cooperated with us our money's worth. He added that he does quality work but should keep the BOS more informed of legal changes.

Mr. Blomgren said **tools to evaluate** could be: value, quality, communication on both litigation and legislative/caselaw; conflicts of interest - Chapter 268A; to value we could add knowledge base - broad.
Mr. Brem said we could look at other alternatives or keep him however, by hiring just one person we exclude ourselves from having a broad range of knowledge and experience.
Mr. Blomgren said we should go into the open market and check these attributes. We could let Town Counsel know that we're giving him 90 days and putting him on a fiscal year basis. We could start our work in Jan./Feb. and review proposals and have Mr. Harrington's contract expire on June 30, 1995.
Mr. Brem said we could go out on the market and give him an opportunity to apply.
Mr. Lawlor noted that we could take our legal work in-house.

Mr. Brem said that our alternatives are to: keep him, go to the open market or go in-house. Between the Town, Sewer and School we spend app. $150,000 per year. Mr. Lynch said that very few Towns have in-house counsel.

Mr. Lawlor noted that we have expectations of him that are not covered in the contract.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to have Mr. Harrington's **contract end on August 31, 1995** and to give a 2 **1/2% raise in fees. Roll Call vote was all Ayes - unan.**

The BOS then evaluated him on a 1 - 5 basis:

1.	Value ($60,000)	4
2.	Quality of Work	4
3.	Communication	
	a. Feedback	3
	b. Litigation	4
	c. Legislative/Case Coverage	1
4.	Value Add	
	a. Town Meeting	4
	b. Local/Institutional Knowledge	4
5.	Timeliness	4
6.	Responsiveness	4
7.	Value Add	
	a. Town Meeting	4
	b. Local/Institutional Knowledge	4

The BOS rated him on knowledge-based broad municipal law at 3.5, but Mr. Lawlor said this is not valid to use as criteria

Mr. Brem said that some items are worth more than others.

The Board then went over the contract drafted by Mr. Harrington with changes and recommendations highlighted by Mr. Blomgren:

Roll Call vote on the following 8 items were all Ayes:

1. Extend contract through August 31, 1995
2. Approve raise of 2 1/2% in fees
3. Increase hours of service to 900
4. Maintain current hourly rate of $75.00
5. Practice constraints bound by provisions of 268A
6. Town will reimburse for membership in either City Solicitors or Town Counsel's Association up to $250
7. Town to pay for minimum of 4 pertinent legal courses per year with cap of $500
8. All other provisions unchanged - deal with health insurance in next contract

At 10:55 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to go out of Executive Session. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye; RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, November 7, 1994 at 10:20 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the session is to discuss **contractual** negotiations.

The Board discussed the **contract with Town Counsel James Harrington.** Mr. Joyce said he is concerned with the language dealing with the Chapter 268A issue, that the letter from Ethics doesn't face all the conflict issues, only those dealing with his wife. Mr. Lynch said that there were two conflicts last year - the Ferreira matter and his wife with the Planning Board.

The BOS agreed to **extend his contract through 8/30/95** and will go to the Beacon and other publications seeking RFQ's in January.
Re **Compensation,** he wants 4% and the **Board said 2 1/2.** Mr. Blomgren said he told Mr. Harrington that the BOS won't go any higher.

Mr. Dalton suggested that we **have Mr. Harrington come in to talk with the Board,** and a meeting will be posted for Monday, November 14 at 8:00 p.m. for a legal update and executive session re his contract.

We will try to meet with the School and Finance Committees on December 1, 1994.

Mr. Lynch briefed the Board on the **Police Chief's contract,** noting that comp time is now flexible time off during normal office hours (non accrued); use of vehicle is only when he is on call and years of experience, not 5 years but 10 years.

Motion by Mr. Joyce, seconded by Mr. Dalton, to **approve the Town Manager's recommendations on his contract with the Police Chief.** Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

At 10:50 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, November 14, 1884 at 8:15 p.m. Members present were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

Mr. Harrington summarized the Town's pending litigation cases:

1. **Voulgarelsi kidnapping** - insurance company attorney handling.
2. **Robert Pereira vs. Board of Appeals** - case is over.
3. **Mazurczyk** - Conservation Commission has issued certificate of compliance.
4. **Brandon Keene** - case was settled for $1,250.00.
5. **Drew Bissonette** - Ins. co. will be closing this file.
6. **Garrity** - settled by ins. co's attorney for $2500.
7. **City of Lowell vs. Town** - Mr. Brem left the room for this discussion due to a possible conflict of interest. Mr. Harrington said a settlement statement is being drafted.
8. **Mass. Bituminous** - case pending in Land Court and they intend to continue pursuing this appeal.
9. **Murphy & Chongris** - Freeman Road - owner was proceeding in compliance with judgment.
10. **Barlow vs. Chongris** - Land Court ruled in favor of Chongris and Town - Barlow's attorney has filed an appeal of the Judgment to the Appeals Court of Mass.
11. **Charles George Trucking** - case has been settled and we are paying our share of $300,000 in installments - ins. co. paid $500,000 on our behalf.
12. **Marcia Shattuck, Personal Injury** - insurer has denied liability on behalf of the Town.
13. **Henry Martineau** - matter taken under advisement and judge will be issuing a judgment.
14. **Christopher Benton, Personal Injury** - denial sent by insurance company - they will close file.
15. **Anne Biederbeck, Personal Injury** - motion for summary judgment filed
16. **John Chuma** - Superseding order issued by DEP and not appealed by Chuma
17. **Paul Dudley** - injury by Town motor vehicle - settled by carrier for $17,500.00
18. **Estates of Sean Caron and Gregory Saunders** - attorney has filed Notice of Claim for the negligence of the Town. Our ins. carrier has assigned case to law firm.
19. **Stacy Swedsen, property damage** - no suit has been filed.
20. **Ronald Brown (Landolphi case)** - School Dept. is expecting notice soon.
21. **Sandra Donovan, personal injury** - ins. carrier has assigned case to law firm.
22. **Edward Hilliard** - case is being handled by ins.co. and no suit has been filed yet but expect one will

23. **Donald Dunn, personal injury** - ins. co. has denied claim on behalf of Town.
24. **Nickles (dog)** - Order of Court has been issued, not in favor of Town
25. **Collier et al** claiming alleged negligence of Town in operation and maintenance of the **dam at Hart Pond.** Title work will be performed to determine who controls the water rights at the pond.
26. **Margaret Robinson** - negligence of Town in snowplowing -has been referred to insurer
27. **Mary Ellen Stanley** - Safety Insurance will voluntarily dismiss the suit
28. **Dominick Altobello** - case remanded to new hearing for Special Permit
29. **Parekh vs. Mascester Co.** - appealing the grant of Special Permits to UPS to increase parking lot
30. **Town vs. Nat Sergi (Oak Knoll Avenue)** septic and zoning non-compliance going to court tomorrow. DA is handling criminal side of case

The litigation summary ended at 9:10, and the BOS then discussed **Mr. Harrington's contract as Town Counsel.** Mr. Blomgren summed up what the **issues** are:

2. **Fee increase** - JMH wants 5%; rationale for not giving - BFL got under 2 1/2% and an 18 month contract
4. **Hourly increase** - JMH wants $85/hr for anything billed over 1000 hours; BOS
5. Practice constraints under **CH 268A**

Last paragraph - **re RFQ process** - all the Board agreed this is where we are at this point.

On point 2 Mr. Harrington said he asked for 5% last year and the BOS said town employees only got 4% so he got that. Now they're comparing him with BFL - and he provides the Town with overheard, secretarial suppport, expenses and all are constantly increasing, overhead particularly. Mr. Harrington said that if we are looking at $15. per week that is not an issue but he sees that the BOS is going out for RFQ's - he has been Town Counsel for 18 years and where does he stand with the Board.
Mr. Blomgren said they rated him fairly high and went over the ratings with him.
Mr. Brem said this is not as much a judgment of past performance as value of services now given. We spend a lot more on other counsels - labor, special, etc. We are looking more at the structure of firms - what do we get for $150,000?
Mr. Harrington said if they are making a change in his position to let him know - going out for quotes is a reflection on his service.

Mr. Lawlor said there are 2 issues - when he discovered the RFQ and 2. he got a good evaluation. This represents a

major change in direction and we need to give him more reasons why and explore our relationship with clients and other firms.
Mr. Dalton asked where are the problems - with 268A? will we do damage to his firm?
Mr. Brem said we looked at all aspects of Town Counsel services - labor, sewer, special, insurance counsels - we pay 11 different firms - over $150,000.
Mr. Harrington said that this surprises him as a long time employee - is to do away with his position the best for the Town?
Mr. Lynch said we talked 4 or 5 years ago that there were several different ways to go -in-house, local counsel, labor counsel is specialized. $150,000 legal expenses is not bad for a Town this size - other Towns are not far from this.

The Board asked Mr. Harrington to leave the room at 9:35 p.m.

Mr. Lawlor said that the **issue of the RFQ** is bothering all of us and is tied in with the length of the contract. Over the next 1 - 2 months Mr. Harrington, Mr. Lynch and one or two Board members should talk about legal services to the Town and how can they be consolidated.
Mr. Lawlor said we should tell him that the BOS is not doing RFQ's in January, and his criticism is that he doesn't' give us updates on law and legislative changes.
Mr. Blomgren asked Mr. Lynch to update the report he did a few years ago on legal services.
Mr. Lynch said we should extend the term of the contract, give him 2 1/1%, wait til the end of the summer to do anything more and tell him we want him to be proactive, with legislative updates.
Mr. Joyce said he questions his loyalty to the BOS, and he is not happy with his performance at Town Meeting.

Mr. Blomgren said that this serves as a wake-up call, both to us and to Town Counsel Harrington.

The **BOS agreed to offer Mr. Harrington the following:** contract through 6/30/96; 3% raise; $80/hr for over 1000 billed hours; follow 268A and be more proactive. The RFQ will be studied and we will look at this next summer.

Mr. Harrington then returned to the meeting. The BOS told him that **by proactive they mean more of:** Town Meeting support, legislative briefings, case law, make sure the BOS is doing things right - public hearings, ballot questions, or whatever. Mr. Lawlor said that by briefings we mean either by case law, court appeals, judicial laws, Supreme Court decisions - let us know what could apply to us and what's coming up.

Mr. Blomgren brought up **268A**, and **Mr. Joyce** said his **concern is with the Planning Board** - they say that more and more Mr.

Harrington can't help them due to a conflict. Mr. Harrington said they haven't asked him. We have had two Special Town Counsels and he has had one conflict over the past three years.

Mr. Blomgren commented that we have met on Sept. 12 and 26, Oct. 3 and 24 to discuss this contract and 268A.

Mr. Harrington will help Mr. Lynch research the RFQ's and they will report back to the BOS before 7/1/95.

Mr. Harrington asked why $80/hr, not $85 since his hourly rate is now $85.00 anyway. The BOS agreed to $85/hr. if over 900 hours.

Motion by Mr. Joyce, seconded by Mr. Dalton, to **approve the contract as amended tonight** - ends 6/30/96; 3% increase retro to Sept. 1, 1994; $85/hr for billings over 900 hours (but won't bill until 1,000 hrs+ and all other points remain the same as agreed. The Board will sign the contract on Dec. 5th. Roll Call vote was RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

At 10:25 p.m. **motion** by Mr. Joyce, seconded by Mr. Dalton, **to adjourn.** Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, January 30, 1995 at 10:10 p.m. at the end of the regular meeting. **Members present** were: Roger A. Blomgren, Robert P. Joyce, William F. Dalton, Jeffrey A. Brem and Peter V. Lawlor. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. **The purpose of the session was to discuss collective bargaining and Mr. Lynch said the issue deals directly with the Fire Dept. union.**

Mr. Lynch said that the issue is that a **female applicant for firefighter** scored first on the Civil Service exam, passed the physical exam but was not recommended by the psychologist. She has filed with Civil Service and Mass. Commission Against Discrimination (MCAD) saying she was **discriminated against because she is a woman.**
MCAD will rule in her favor and order us to take her on and pay her 14 months+ of back wages, her and our legal costs and potential damages.
Mr. Lyunch is bringing the BOS up to date on the matter - our proposal is that we bring her on as a firefighter, pay her legal and psychological costs and give her the same seniority rights as if she had been appointed. This seniority will have to be negotiated with the Fire Union. Labor Counsel Moschos recommends settling for app. $12,000, and Chief Parow will make recommendations as to the conditions of the hiring.
Mr. Lynch said he is briefing the Board and asking their support to settle the matter. He added that the psychological testing has only been done in the Fire Dept. since last year, but the Police Dept. has used this testing for many years. We've spent $5,000 - $6,000 on legal fees.

Motion by Mr. Joyce, seconded by Mr. Brem, to **approve the recommendation of the Town Manager and Special Counsel to settle this matter for the amounts that have been discussed** Roll Call vote was as follows: RPJ-Aye; WFD-Abstain; JAB-Aye; PVL-Aye and RAB-Aye.

Mr. Lynch then briefed the Board on the Villare matter, noting that he is a former police patrolman who had gone to work in North Reading but was terminated for sexual harassment and wanted to come back to Chelmsford. Chief Caron gave him notice that we're hiring six new officers and hired Villare and then suspended him. The hearing as to whether we should fire him has been postponed until March 1st. Mr. Lynch said he will have the transcript available for Board members to see.

Mr. Lawlor told the Board that under MCL Ch53, Sec. 16A a **non-binding referendum question must be placed on the ballot at least 35 days prior to an election.**

At 10:30 p.m. motion by Mr. Joyce, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: RPJ-Aye; WFD-Aye; JAB-Aye; PVL-Aye and RAB-Aye.

For the Board of Selectmen, by

Judith E. Carter

An **Executive Session** was held March 20, 1995 at 11:25 p.m. for the purpose of contractual negotiations and real estate. Present were Chairman Blomgren, Mr. Joyce, Mr. Dalton, Mr. Brem and Mr. Lawlor. Town Manager Bernard Lynch was present also.

Town Manager Lynch explained to the board that nothing has been presented to the town at this time concerning Apple Country Club. Mr. Lynch stated that he asked Land Use Coordinator Andy Sheehan and Recreation Director Holly Rice to investigate some of the municipal golf courses in the surrounding communities. Mr. Lynch reported all the communities they checked with, except Groton, were making a profit and there may be grant money available if it remains open space. Mr. Lawlor said that the town should be prepared and hire someone to do an appraisal on the property. Mr. Joyce made a motion to direct the Town Manager to pursue an appraisal on the property and continue evaluating the land. Mr. Dalton seconded. Mr. Joyce, aye, Mr. Dalton, aye, Mr. Brem, aye, Mr. Lawlor, aye, Mr. Blomgren, aye.

Sel. Blomgren reported that the cable contract negotiations were moving forward. He said that a fee is collected by the cable company and passed on to the town to pay for programs on Channel 42 and 43. Mr. Blomgren said the town is asking for a 10% discount for senior citizens on basic services and a new fully equipped van. Roger said they talked about having free additional drops provided in the gym and other locations. Mr. Brem asked if they could discuss, at a future meeting, the possibility of exchanging the box at the cable company rather than having someone come to your home.

Mr. Joyce made a motion to adjourn the meeting, Mr. Dalton seconded. Mr. Joyce, aye, Mr. Dalton, aye, Mr. Brem, aye, Mr. Lawlor, aye, Mr. Blomgren, aye.

There being no further business the meeting adjourned at 11:50 p.m.

Respectfully submitted,

Marian Currier

Marian Currier

Executive Session of the Board of Selectmen held Monday, April 10, 1995 at 6:45 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter, Town Counsel James Harrington and Sewer Commission Chairman John P. Emerson, Jr. were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to **go into Executive Session to discuss real property, collective bargaining, pending litigation and contracts under negotiation.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Lynch said an **agreement has been reached with the City of Lowell re the Town of Chelmsford's share of Duck Island construction and renovation and the main interceptors.** The original cost was $3.1 mil and we reached $1.1 mil as a final settlement. We worked out additional language - East Chelmsford, BODs and TSSs, and Drum Hill and testing.
Mr. Harrington said it has taken 1 1/2 years to clear up the language and the EPA is coming out with new regulations and we have said that we won't pay interest.
Mr. Emerson said they've settled with Tewksbury and Dracut, and they go back to 1987. We go back to 1977 when the treatment plant was built and all costs incurred. All the other Towns left interest costs outstanding but we've written off.
Mr. Lawlor said that the original controversy was the capitalization of the funding of Duck Island, and Mr. Lynch said it still all capital costs so we can bond it. Mr. Emerson noted that Lowell was fined $250,000 by the EPA but we had good backup with Weston & Sampson studies. $8 mil was given by the federal government for Chelmsford's share of the Duck Island Regional Treatment Plant. Mr. Harrington said we're not funding operational costs and they've agreed to do a complete study with East Chelmsford, each sharing 50% of the costs. Mr. Emerson said that we have a 30 year agreement with the City of Lowell.
Mr. Lynch said that our share is written into the $39 mil bond issue, and already in the capital budget.

Mr. Lynch briefed the Board on the upcoming Cable TV hearing, advising them not to tie the vote and transfer together.

At 7:05 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn this session until after the close of the regular

session. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

At 11:07 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to return to Executive Session for the purposes stated above. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Lynch spoke about the **Apple Country Club,** saying that he is hearing rumors that it will be sold for a 30-lot subdivision, and he has a quote from one appraiser to do an appraisal for $3930 in two phases, a summary format and a complete appraisal project. The question is whether to put it on the Special Town Warrant - the 10 year preservation restriction runs out on July 1st, which ends our right of first refusal.
The value is between $1.1 and $1.5 mil and if we decide to take it we could borrow the money and put it into the debt schedule, or the income we could acquire if it were a municipal golf course.
The STM will probably be held May 4th and we would announce it next Tuesday night. Mr. Lawlor said If we take it by eminent domain that's why we need a good appraisal. We can make a pro tonto payment and they can contest the price.
Motion by Mr. Lawlor, seconded by Ms. Gates, to authorize Mr. Lynch to have two more days to choose an appraiser and to go with whichever price does not exceed $3950. Roll Call vote was as follows: PVL-Aye;WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Lynch then brought up his contract with the Town, stating that there is a clause that allows him to teach. He has an opportunity to teach at U. Mass. Lowell for 5 weeks in June, Tuesday and Thursday evenings from 6 -9 pm. The course will not require a large amount of prep time.
Motion by Mr. Lawlor, seconded by Ms. Gates, to approve the Town Manager's request to teach. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

At 11:20 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to go out of Executive Session and adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Tuesday, April 18, 1995 at 7:00 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger a. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Attorney Peter Epstein and Cy Locke and Kelly Beatty of the CATV Advisory Committee were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to go **into Executive Session to discuss contract negotiations, acquisition of real estate and collective bargaining.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Atty. Epstein presented a brief outline of where we stand with the renewal negotiations with Colony Cable. He listed 8 items:

1. Renewal Term - an open issue, between 5 and 10 years.

2. Peg Access Funding - Mr. Blomgren said they are charging subscribers $1.50 per month all for administration, and Mr. Epstein said the school system basically pays PEG Access. He added that we have tried to minimize the impact on subscribers. **Mr. Dalton** asked why we can't say 5% and **Mr. Epstein** said that Congress says you can get 5% but just Pass it Thru, and they've said OK - are we prepared to support 5%.

Kelly Beatty said that it takes about $60,000 in salaries to support Cable 43 and Cy Locke said that operating expenses are about $80,000 which is subsidized by the School Dept. Mr. Beatty added that we have non-profit Cable Access TV which reports to the Foundation Board of Directors. **Mr. Joyce** asked how our offer from them compares to Lowell and **Mr. Beatty** said their access corp. got $300,000 in equipment and 5% funding all pass thru.

Mr. Epstein said the equipment grant can be above 5% - we asked for $400,000 and they are saying $225,000; we had agreed to have it not Passed Thru but now they are saying Pass Thru. He said we have to consider what is reasonable, and the killer is the percentage. Mr. Lawlor said that as a Board we lack perspective and what is the market good for? Atty. Epstein said that in Massachusetts a community can get up to 5% and an equipment grant.

Mr. Epstein said that Continental has gotten into trouble with the FCC on their rates, and they're going to upgrade all systems in the community. The upgrade will be greater than what Colony would do.

Mr. Lawlor asked does our greatest lever, in reality, have to do with the length of the contract. Mr. Epstein commented that with government deregulating the Town may

want to have a longer term but given that they want 10 years if if's fair, go with it.
The **4th item - System Rebuild** - is a major capital expenditure that they will probably do anyway. Lowell and Tewksbury are both giving ten years and Chelmsford may have an advantage for 5 years.
Mr. Dalton asked what does access need for equipment and Mr. Locke told him that they have priced it out, that we will hopefully be using the studio at the Parker School and to equip with "Cadillac" equipment would cost $400,000 - we could get by with $275,000 and they want to lower that to $225,000. Mr. Joyce asked about the High School studio and Mr. Locke said that will be a training studio, that there are two studios at Parker with one combined control room. Mr. Beatty said if we are going to expand we need the Parker School.
Atty. Epstein said if you get what you want it might be best with a ten year contract - would we do better in 5 years - maybe not. They're a better, sharper company than Colony.
#3 - PEG Channels is agreed to.
#4 - System Rebuild - they will add to 80 Channels and fibre optic cable within 2 years.
#5 - Institutional Network - this would be a separate cable going thru Town to connect all Town programs. They said No, that they will only give us a couple of channels in the subscriber network and would build a fiber I-net without cost and now are saying that they can't do that. They can't give what they are proposing, which is an inconsistency, since they said they would do it, but not in writing.
#6 - Senior Discount - Continental is saying 65 years and eligible for state rebate. We would have 115 people eligible and Mr. Joyce said this would be only a token. Atty. Epstein said this is rate regulation and we can get them to agree, but they don't want to put it in the license.
#7 - Emergency Alert - agreed to.
#8 - Drops/Outlets - are adding a few cable boxes and outlets/converters at no great cost.

Atty. Epstein said the BOS should push on Access Funding, I-Net and the term, and take whatever they've done in Lowell on the other issues.

Mr. Joyce asked what can we do about **Cable 6** and Mr. Epstein said it is not inappropriate to ask for it - it is not in the license but he has asked them to commit to it in writing that Cable 6 will continue. Mr. Lawlor asked if we could make that a reopener - that's a cost savings to them. Mr. Epstein responded that Colony is out of here in a month or

two and Continental will have to honor any commitment. Continental is the only system that has an active programming system and Cable 6 is a market issue. Mr. Lynch commented that Continental owns NECN. Mr. Epstein said that we can do anything, just not operate in bad faith. We're at the 10th hour in negotiating, only 4 or 5 more months, and this has been an amicable renewal. We need to get a bottom line that the BOS feels comfortable with.
Mr. Lawlor said that in the end our analysis will be Mr. Locke's group - we should get from them what they think is most important. Mr. Locke said we should authorize Atty. Epstein that he will tell Joanne Somer that we will bypass her if she doesn't respond in a timely fashion and go directly to Bruce Clark, President.
Mr. Epstein said that the BOS has until June17 to approve the transfer and have until June 28 to renew the contract. He will try to get to Bruce Clark, and Mr. Blomgren said that we'll go public if he doesn't talk to Atty. Epstein.
Mr. Lynch said if the contract is not settled the Board of Selectmen will hold a Public Hearing and Mr. Epstein said that if we are at an impasse by May 15th the BOS can vote to deny, and they'll try to sue us.

At 8:10 p.m. **motion by Mr. Lawlor, seconded by Mr. Dalton, to suspend this session until after the meeting with the School Committee and FinCom.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

The Board re-convened their Executive Session at 9:30 p.m. April 18, 1995 for the **purpose of discussing real property.** All members were present as were the Town Manager and Adm. Asst. to the BOS.

Mr. Lynch brought the Board up to date on the Apple Country Club property. The assessed value is $1.7 mil, and they have been getting a 75% abatement. He has talked with Town Counsel Jim Harrington and been advised of the following:
1. we can take the property by Eminent Domain for the public good;
2. Under CH61B, do we have the right of first refusal - if we do, it expires June 30th
3. mortgages on the property?
4. Joe Shanahan is Country Club Estates, Jim Shannon, Teasurer; Debbie Shanahan, Clerk and their children are the directors.
5. Mr. Shanahan would be willing to sell it to us - he has

an exclusive option to purchase the property. Mr. Lawlor noted that it is an unrecorded instrument right now and has to be exercised within a certain period and with conditions. It is based on a certain number of approved lots and there will be a reduction in price if there is less than that number. Earl Carlson will receive the money as lots are sold.

Mr. Lynch said that Mr. Shanahan is talking $1.6 mil, but would take less. He will sell us his option for $10,000 by noon on April 20th. He said that he and Jim Harrington are meeting with Mr. Carlson tomorrow morning and Mr. Harrington says we are on safe ground doing this.

Mr. Lawlor said that Mr. Shanahan would have to show us if he has reasonable, cognizable interest in this property. Special Town Meeting could give us the vote to take it by eminent domain
The property is assessed for $1.7 mil, but he pays taxes on $1.1 mil.

Mr. Lynch then went over the **cost avoidance issue,** comparing what a 28 lot subdivision would cost the town in services and what would the Town get in taxes vs. what a 10 year bond would cost the Town to purchase the property. He said we can go for grants, and if we don't get them we can develop it ourselves.
The Town of Stoneham makes $250-#300,000 on its golf course; Lexington receives $200-$250,000 for the Town but actually makes $500-$550,000.
Mr. Lawlor asked what is the argument against it, and Mr. Lynch said we would be taking on additional debt. Groton's golf course is a money loser but he will talk with them.

Mr. Lynch asked how would we manage it - internally, or lease it out. Mr. Dalton said the course is in disrepair and Mr. Lynch said if we lease it that is not our problem, it will come out of management costs. Mr. Lynch read the article on the STM draft warrant, which is all inclusive.
Mr. Lawlor reminded Mr. Lynch that he is not to offer Mr. Shanahan anything and to ask Avery for an appraisal fee before he goes ahead.

Mr. Lynch then updated the Board on Collective Bargaining, saying that he has met with the Clerical, Patrolmen, Superior Officers and Library Unions. They have agreed on ground rules and exchanged proposals. He has not met with Fire, Cemetery and Highway yet. The issues will be mostly

technical language type changes since we don't have much money to offer. Mr. Lawlor reminded him to keep in mind his 5 year projections to the Board.
Mr. Lynch said it has no increase in salaries but we will be able to give small raises in 3 out of 5 years.
Mr. Lawlor said to let them know the 5 year numbers, both the School Committee and the Unions. The School needs to make the same progress that the Town has made. Mr. Lynch said that the $150,000 he is asking for in the warrant represents 2% for all units.

At 10:10 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, **to go out of Executive Session.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, April 24, 1995 at the Senior Center at 6:30 p.m. **Members present** were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to **go into Executive Session to discuss the acquisition of real property and potential litigation.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Lynch brought the Board up to date on the **proposed sale of the Apple Country Club**, stating that he and Mr. Harrington had planned to meet with Earl Carlson last Wednesday. Attorney Joseph Shanahan told Mr. Lynch that it was not appropriate for the Town to speak with Mr. Carlson and Mr. Shanahan will not deal with the Town if we do. It was agreed that Mr. Harrington would go himself to the meeting, and he said that Attorney Shanahan was also present. Mr. Harrington later called Mr. Carlson and asked what was happening under CH61B, that the agreement was never signed and delivered and where do we stand. Mr. Carlson said he thought the Town had the right of first refusal and Mr. Lynch said that we do have it until June 30th, since Mr. Carlson said the sale would take place on June 30th.
Mr. Lynch added that Mr. Carlson had gone to the Assessors in the late summer to renew his tax agreement but it was not done. Mr. Shanahan appears to be in option of some sorts on this property, and the Assessors thought that Mr. Shanahan was representing Mr. Carlson.
Mr. Lynch spoke with Mr. Shanahan today and he still would like to make a deal with the Town with his option. Mr. Lynch feels that Mr. Shanahan will try to get Town Meeting to turn down the Town's buying or taking the property and he will buy the property and sell it to the Town for $1.6 million. We have heard that he will pay Mr. Carlson $1 million. Mr. Lynch has also heard that Phil Friel wants to buy the property and run it as a golf course, and that Dave Merrill will tie in with him.
Mr. Harrington told the Board that for us to have the right of first refusal there must be a signed option or a change in zoning, and if the Town wants to purchase we should go forward with Eminent Domain takings. Mr. Harrington thinks the option with Mr. Shanahan will run from 7/5/95 through 7/5/96.

Mr. Lawlor said that as protocol we need to get the

appraisal and meet with Mr. Carlson and tell him that we have two alternatives - offer him a deal or proceed with eminent domain takings. If Mr. Friel is going to be involved we should tell Mr. Carlson that for some dollar amount we would like him to put a covenant on the property that it will forever be Open Space.
Mr. Harrington said he thinks that Mr. Shanahan has an option now with Mr. Carlson and he doesn't think the Town should meet with Earl Carlson but proceed with the Eminent Domain.
Motion by Mr. Lawlor, seconded by Mr. Dalton, that no one on behalf of the Town have any authority to negotiate with any third parties concerning the operation or acquiring any interest in Apple Country Club. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Harrington then briefed the Board on the **redemption of a piece of property on Freeman Lake** that had been bid on by Judith Levasseur but was later discovered to have been redeemed. In the spring of 1994 George Nickerson wanted to start redemption of some of the small lots on Freeman lake, and he, Mr. Lynch and Finance Director agreed that he could redeem them. Mr. Harrington got the figures from Carol Lambert and Mr. Nickerson went through Land Court and got redemptions. After that it was discovered that he still owed taxes and Mr. Harrington lent him $1800 out of the $7200 that he owed. He named his wife Barbara as Trustee.It was also discovered that no one had done the titles on these lots so this also had to be done.
Mr. Lawlor referenced Attorney Shanahan's letter of April 19 and Mr. Lynch will send a letter to him asking what damages his client Judith Levasseur is seeking.
Mr. Lawlor moved, seconded by Mr. Dalton, **that the BOS authorize Mr. Lynch to release any documents on this matter in the possession of the Town unless he determines that he needs to seek independent counsel if some or all of the documents could expose the Town to liability.** Roll Call Vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Lynch told the Board that a **suit has been brought against the Town by the McSweeneys** because Officer Tom Niemaszyk had tried to collect rent from them while on duty.

At 7:05 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn to Open Session. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, May 4, 1995 at 6:40 p.m. at the Senior Center. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates, Roger A. Blomgren and Robert P. Joyce. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Town Counsel James Harrington were also present.

At 6:40 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to **go into Executive Session to discuss real property.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Lynch said he had received an appraisal from Avery on the Apple Country Club of $1,250,000. He showed the BOS the presentation.

Mr. Lynch started to discuss debt and operating costs but Mr. Harrington said this would be appropriate for Open Session discussion.

Mr. Harrington said he had questions in his mind after the last meeting - there is nothing questionable that the Town has done; if action is brought under Eminent Domain for additional funding, it would not be favorable. **Legally we're in good shape as to what we've done in the past or will do tonight.**

Mr. Lawlor said the way the article has been drafted it could be taken by purchase or Eminent Domain and **Mr. Harrington** said this is the standard article for this type of taking, and he hasn't given up on the right of first refusal.
Mr. Lawlor said it would be inappropriate that we sell off a portion of the property, although we do have 17 acres of land abutting this property and we have the right to use it as a driving range.
Mr. Lawlor said that when we take the property for $1.25 mil he doesn't have to pay the $136,000 in taxes, and Mr. Harrington said as of July 1st Earl Carlson has to make that payment.
Mr. Lawlor said if we take it by Eminent Domain it is subject to all taxes and **Mr. Harrington** said these are taxes that have been deferred.
Mr. Lawlor asked about **timing on the taking** - his idea is ASAP. Mr. Harrington noted that once we do the taking we have 60 days to make payment, and we can always take it on July 2nd. He added that there is very little debt outstanding on the property.

Mr. Lynch said we will have to do some type of arrangement for the operation of the golf course.

Mr. Dalton asked if Affordable Housing is an option and Mr. Lynch said it could take up to 200 units but nothing has been submitted to the Planning Board.

At 7:00 p.m. motion by Mr. Lawlor, seconded by Mr. Joyce, to go out of Executive Session. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, May 15, 1995 at 9:00 p.m. Members present were: Robert p. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch, Adm. Asst.. Judith Carter, **Cable TV Counsel Peter Epstein and Cable TV Advisory Board members Cy Locke, Matt Scott, Jack Fischer, Frank Peterson, Kelly Beatty and Jake Sartz** were also present. **Town Counsel James Harrington** later joined the group. The **purpose of the session was to discuss contract negotiations and acquisition of real property.**

Mr. Lynch said that he had **met with Atty. Epstein** and he is reporting on that and he also wants input from the CATV Commission. **Mr. Locke will report on the CATV recommendation** - that last time there were many issues, including funding for local access, annual amount of equipment grant, configuration of institutional network, etc. Continental will provide fiber optic cable for I-Net. There are also PEG Access Funding Issues.
Mr. Epstein said the BOS must act on the transfer from Colony to Continental prior to June 13th.

Mr. Locke said that three weeks ago Dan Ratte called and said we've hit an impasse. He met with Mr. Ratte and gave him a copy of the handout, and said we have to talk with a person who can say yes or no. Bruce Clark is the president of Colony TV. Mr. Locke quickly went over the 5 proposals on the handout and said that Option. 5 - 4% for 3 years and $275,000 for year 1 is the one the CATV Comm. is considering.
Option 2 is what they have on the table now and when he called Matt Scott he thought they could do with this, asdid Kelly Beatty.
Mr. Epstein called Bruce Clark and got nowhere - they are firm with Option 2. He told Mr. Clark that Option 5 would be beneficial to both. Mr. Locke commented that he has met Bruce Clark in the past, that he is a fair but tough negotiator and when he says that's it, that's the end. Mr. Locke noted that it is now the middle of May and if we agree to transfer to Continental by the first of July Don Ratte has indicated that Colony may opt out and let us deal with Continental. We have two months before the contract expires.
Mr. Epstein said that the license cannot extend beyond Sept. 30, 1995 by State law, and the worst case scenario would be that the town would go black. He said that Colony is taking some cues from Continental, that Continental told them there was a problem. Mr. Locke said if we deal with Continental

on July 1st that gives us two months to start over with Continental. Mr. Epstein said Continental must assume the obligations in the current contract and they're also under the gun. The current contract with Colony expires June 29 but it could go past July 1 - Continental will also extend.

Mr. Dalton asked who are we better off to deal with and Mr. Epstein said he has gotten fair deals from Continental. The problem on the equipment grant is not with Chelmsford but with Lowell - they got $300,000 with 27,000 subscribers, and why would they give Chelmsford $350 - $400,000 with 10,000 subscribers. Mr. Epstein assumes that Continental would come in and deal in an amicable way.

Mr. Locke said the Commission's recommendation is that if Matt and Kelly can live with Option 2, with a separate I-Net, the **CATV Comm. recommends Option 2.** Ms. Gates asked what leverage do we have? There are no other vendors out there waiting for us. Mr. Epstein said that history tells us that cable companies don't work 1 on 1 with other companies. The term may be leverage - we will give them between 5 and 10 years, 10 if the deal is appropriate.

Mr. Epstein said that their options based on a 10 year term are still on the table because there has been no commitment from the Town as to term. I-Net - they will connect 20 points in Town - they have to have separate cable because they don't have enough upstream.

Mr. Lynch asked if the Lowell problem goes away when Continental comes in and Mr. Epstein said he doesn't know where they're coming from - they are dealing with Tewksbury, too. He said that based on the number of subscribers - 10,000, that $00,000 is not an outrageous figure, and not too high.
Matt Scott commented that whether we're asking $400,000 or $225,000 it is the subscribers who will be paying. Mr. Joyce asked what are we giving up with No. 2 and Mr. Locke said that $400,000 was using cadillac equipment and $225,000 is a realistic figure. 4.4% is $173,000 annually. Lowell has applied for grants and we should too.
Mr. Sartz said we can't deal with the Town going black, which is the main reason we are taking #2. This is the best deal we cam get - if we lock into a 10 year term with Option 2, that's not a bad thing asking for concessions and a signed contract.
Mr. Scott said in 5 years we could use $100,000 for new equipment but we're getting a better deal than Lowell.

Mr. Lawlor asked what if we indexed things down the road - more subscriber, more drop-offs, maybe put in re-openers. Mr. Epstein said re the equipment grant, look at what you have and when you may need more money to upgrade. We could say let's go with the transfer now and then you could deal with Continental now.
Frank Peterson said when he CATV Commission talked what we really wanted was equipment - we don't really want the van - that one was donated and he and his son have been fixing it. **Mr. Epstein advised** that we don't wait until the end of June - talk about the transfer and sign it. We've gone about 80% of the way and things have bogged down. Continental is infinitely smarter than Colony.

Mr. Lynch asked if we transferred the license today is Continental locked in to the last proposition that Colony put forth, and Mr. Epstein said it would be in bad faith for them not to do it. Mr. Lynch asked who is likely to offer more, Colony or Continental, and Mr. Epstein said as part of the transfer agreement we need to know where they stand. He added that if as the Board of Selectmen you want to go with Continental sign the transfer - you shouldn't deny it since they're in compliance, and do it as quickly as possible.

Mr. Locke asked his commission if they want Option 2 as a baseline only, or as a last resort and should we proceed with Continental. **Mr. Sartz** said he trusts Mr. Epstein; **Mr. Scott** said even with capital monies it's passed on to the subscribers, Colony knows what Channels 6 and 43 mean to the Community. Continental deals with thousands of access centers, which could be a downside. With the monies they've offered we can do what we want to do. **Mr. Peterson** said let's lean on Mr. Epstein's expertise. Whatever we get is passed on to the consumer, and the PEG system is working right. **Mr. Fischer** said we're dealing with new members when we talk with Continental, and agrees with Mr. Epstein that he and Cy did the best on the base issue.
Mr. Epstein said that Continental is in the middle of a fight with the FCC for overcharging and have to upgrade all systems. It may be a benefit, or may be unknown. Comments are due on Monday.

Mr. Lynch outlined the options to be taken: 1. transfer consideration; 2. transfer approval, contingent upon base in negotiations; 3. negotiate with Continental, with Option #2 as minimum. Mr. Epstein said our RFP is not crazy numbers - he will put together a draft approval and a statement for the BOS to sign.

Mr. Lawlor reminded the BOS that our vote to transfer has to be done in Open Session and we should sign next Monday night, and Mr. Epstein said if you sign Monday you have 4 months to negotiate before Sept. 30th. He will look at the situation and call Mr. Lynch before the end of the week.

Mr. Epstein and the CATV Commission left the meeting at 10:20 p.m.

Town Counsel James Harrington joined the meeting at 10:25 p.m. to discuss the Apple Country Club.

We need to discuss **seller concerns, plan of land for recording, rollback taxes, response to Attorney Shanahan and financing. Seller concerns** - who is the seller, Shanahan or Earl Carlson. We need a **plan of land for recording purposes Rollback taxes** - they think they need to pay them. **Response to Atty. Shanahan from Mr. Harrington** - Mr. Shanahan says he has his option extended. Re financing, Fred Mansfield says he can come up with $1.2 mil fast.

Mr. Harrington said that **Earl Carlson's Attorney Faddon** did not get back to him - he was conferring with his client. **Mr. Harrington said he wants to set up a meeting with Faddon and Carlson.** Mr. Carlson is not upset with the Town taking the property, he doesn't want to be sued by Mr. Shanahan, he's putting the minimal on record and didn't respond to Mr. Shanahan's deadline. He thinks what Mr. Shanahan has now is an agreement to get an option upon payment of substantial money.

Ms. Gates noted that Mr. Shanahan's petition to the Planning Board for a 28-lot subdivision indicates that he intends to not use it as a golf course. Mr. Lawlor said he has drafted a letter to Carlson and one to Shanahan - our conclusion is that we want the property at a fair price.

Mr. Harrington said his concerns are: **Rollback taxes** - do we have them or not. If we take the property while it is in 61B we may not be entitled to rollback taxes of $130,000. if we take before July 1st. If he takes the property out of 61B he has to pay the rollback taxes. Mr. Harrington is recommending that we **talk with Joe Dalton, the Board of Assessors'' attorney.** It appears that after July 1st the property comes out of 61B and the taxes are due. He wants to meet with someone who's had experience in these cases. He would also like to talk with **Dave Tobin, an expert in**

eminent domain work. Before July 1st the property is not residential - does Mr. Shanahan have an option or does he have to come up with the money by July 5th. If 61B runs out on July 1st the property becomes residential. Mr. Harrington wants to meet with appraiser John Avery because we need two figures - one before and one after July 1st. Find out if Attorney Shanahan is a party in interest or not a party in interest. Re seller concerns, we have the Town Meeting vote and want his cooperation in Mr. Carlson's letter drafted by Mr. Lawlor, and our response to Mr. Shanahan should be that a copy of the extension is most satisfactory and we want to see a copy of his option.

Mr. Lynch said that **Kathy Howe has done a plan of the land** for Mr. Shanahan and he will sell it to us for $6200. Noonan & McDowell could do a plan in 3 or 4 weeks for $8,000. Three or four acres are not included in the Shanahan plan but Ms. Howe could do this within one week for $800.00.

Motion by Mr. Lawlor, seconded by Mr. Dalton, **to go with Kathy Howe as long as the signature block shows reference to the Town, with no reference to Mr. Shanahan or Country Club Estates.** Mr. Harrington said Mr. Shanahan can release Ms. Howe to give the plan to the Town, and we can pay her and she can credit his account or refund him. Roll Call vote on Mr. Lawlor's motion was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Mr. Harrington said he plans now to do it before July 1st, and he is more concerned with Mr. Shanahan coming in with a figure of $1.8 mil than he is with rollback taxes. Mr. Lawlor asked Mr. Harrington to go over his letter and get back to Mr. Lynch and Mr. Joyce tomorrow.

At 11:10 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, unan. to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, July 17, 1995 at 7:35 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch was also present, as was Special Counsel Charles Kadison.

The purpose of the session was to discuss the acquisition of real property and any potential litigation related thereto.

Attorney Kadison had prepared the Order of Taking for the Apple Country Club which has to be voted and signed publicly by the Board. The order includes the payment of $988,621 to the owners of the club. Mr. Kadison said that the BOS should not discuss how this figure was arrived at until the appeal period is over. He will record this instrument at the Registry of Deeds asap and the Town will take title to the property as soon as the order is recorded.

After further discussion, at **8:00 p.m.** motion by Mr. Lawlor, seconded by Mr. Dalton, to **adjourn to Open Session.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, May 22, 1995 at 9:00 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter, Town Counsel James Harrington and Special Counsel Charles Kadison were also present.

Motion by Mr. Lawlor, seconded by Mr. Joyce, **to go into Executive Session to discuss: discipline or dismissal of an employee; collective bargaining or litigation; to conduct strategy sessions in preparation for negotiations with non-union personnel, and to discuss the purchase or lease of real property.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to **appoint Attorney Charles Kadison to represent the Town in the matter raised by Judith LeVasseur.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Attorney Kadison reported to the BOS that his preliminary investigation has shown that a certain parcel of land had been taken for taxes by the Town, that the taking had been handled by foreclosure,that the matter had been handled by the Town by its tax title counsel, and that the foreclosure was completed and a final decree had been issued. The taxpayer has only one year to redeem after foreclosure; after that year's period, only the Town can grant a redemption On Nov. 1, 1994, two years after the foreclosure of the right of redemption, Attorney Harrington, filing his appearance at the Land Court on behalf of the Town and petitioned the Land Court to vacate the decree of foreclosure. That petition was granted that day by the Land Court as is its custom when a representative of the Town requests the setting aside of the decree. The case was then withdrawn and as such the status of the title was as though it never left the owner.

Attorney Kadison next viewed a deed which showed that the title to the subject parcel had been conveyed from George Nickerson to a nominee trust of which Barbara Harrington was Trustee.

Mr. Lawlor asked if he has had a chance to review the correspondence from Attorney Shanahan and Atty. Kadison said he has, that he doesn't entirely agree with his conclusions and that it may be possible to get the land back. **Mr. Lawlor asked him what options he sees to get the title to the subject property to Ms. LeVasseur at this time.** Atty. Kadison said his first thought is that the Town should attempt to obtain the land back, and that there is a procedure in Land Court that is fairly simple if the Town had the cooperation of Mr. Harrington and Mr. Nickerson. We would petition to vacate the foreclosure decree so the title would come back to the Town. Tax title is half-way between a quitclaim deed and a mortgage. To foreclose cuts off the right of redemption, and we should ask for a confirmatory deed from the present owner.

Motion by Mr. Lawlor, seconded by Mr. Dalton, that we **request Special Counsel to file a motion in Land Court to reinstate the Land Court Foreclosure Right of Redemption.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Atty. Kadison said that he and Mr. Harrington have come to a tentative solution. Mr. Harrington said he has talked to Mr. Nickerson and he is willing to do this, but he did pay taxes and would like to be reimbursed. Attorney Kadison said he wants a paper trail of the money to be followed. This would be achieved by a refund to the taxpayer in exchange for his deeding the parcel back to the Town. The money would then come into the town from the bidder, Mrs. LeVasseur.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to request that the Town Manager in conjunction with the Finance Director and the Town Accountant ascertain that flow of money going out to Mr. Nickerson and coming in from Ms. LeVasseur as suggested by Attorney Kadison is permitted from the perspective of municipal finance and that upon the return of title to the Town that we refund the taxpayer, Mr. Nickerson. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Atty. Kadison said that the bid has been awarded and the Town should receive consideration from the purchaser.

Chairman Joyce asked Special Counsel to continue the process with the LeVasseurs for the purpose of completing this transaction.
Mr. Lawlor noted that in his letter of May 16, 1995, Attorney Shanahan is asking that his fees in this matter be reimbursed by the Town and that title go to Ms. LeVasseur for consideration. Mr. Kadison stated that he had not yet spoken to Mr. Shanahan concerning these demands.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to **authorize Attorney Kadison to have dealings with Attorney Shanahan to determine how he arrived at the costs.Mr Kadison, however, shall have no authority to offer Attorney Shanahan any amount of money. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.**

Mr. Lawlor said the only further thing we want Atty. Kadison to be able to report to the public what steps the Board has taken to address the concerns raised by Ms. LeVasseur in our attempt to resolve the matter - the public perceives that Ms. LeVasseur has been wronged by the Town and we think it's appropriate for the Board to make a statement.

Attorney Kadison told the Board that he thinks Mr. Harrington deserves some protection too. It appears to Attorney Kadison that he was trying to help a friend, but Attorney Kadison is further concerned on the issue of whether Attorney Harrington was consciously aware that the bid process was going on. He made a major mistake - he should have gone to the Board of Selectmen, he should have had prior approval to represent someone other than the Town in this matter. Attorney Kadison believes that Attorney Harrington misconceived the situation. He did not believe that he was doing anything wrong.

Mr. Kadison thinks the Chairman should read a prepared statement drafted by the Town Manager and himself indicating that the concerns of Ms. LeVasseur have been addressed by the Town - that the Town has "...turned the clock back." **Mr. Lawlor made a motion, seconded by Mr. Dalton, that the Chairman, acting in conjunction with the Town Manager, draft a**

statement concerning the Town's settlement efforts and that the proposed report be reviewed by Mr. Kadison before it is released. Mr Kadison requested that Mr. Harrington similarly review the statement before it is released. **Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.**

Attorney Kadison was further instructed to contact Attorney Shanahan to advise him that Mr. Kadison is now representing the Town in this matter and that we would move expeditiously. Mr. Lawlor further requested of Mr. Kadison that he cause the title to be examined so as to insure that the means of settlement which we are trying to achieve are not thwarted by some subsequently recorded encumbrance upon the title. Mr. Kadison was also requested by Mr. Lawlor to review the trust instrument. Mr. Kadison said that he would review all of these items.

Mr. Lawlor next noted, now that the Ms. LeVasseur matter now appears to be on track to being resolved, that it was an appropriate time for the Board to look at
having Attorney Kadison represent the Town in connection with upcoming acquisition of the Apple Country Club. Mr. Lawlor made the motion, seconded by Mr. Dalton, that the Board appoint Mr. Kadison to represent the Town in that capacity as well. Mr. Lynch concurred that it was a good idea. **Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.** Mr Lawlor requested that this vote be repeated in open session as it was probably not an appropriate vote for executive session.

Mr. Lawlor then stated that from his perspective, any further action on the part of the Board concerning how the Board views the entire LeVasseur matter and how it will or should have an impact on the relationship between the Board and Town Counsel James Harrington should wait until the Board has received the report of Mr. Kadison. The Board needs to look at all of the facts, all of the relationships and all of the documents. The Board should not act precipitously.

Mr. Kadison said he doesn't want to find dishonesty but if he finds it he will report it. So far, he has found no real evidence of dishonesty or a true breach of a fiduciary duty. Mr. Harrington probably believed that he was authorized to do what he did by the Town. Mr. Lawlor then interrupted Mr. Kadison and noted that in that the conduct of an employee was being discussed that Mr. Harrington had a right to a 48 hour notice in advance unless he waived such notice. Mr. Harrington indicated on the record that he waived the necessity of the 48 hour notice and stated that it was alright with him for the Board to continue its discussion.

Mr Kadison went on to report that he has found conduct that isn't really correct but with no intent to harm, only carelessness. There was no intent to deny the Town of any thing to which it was entitled. This incident certainly has the appearance of wrongdoing it jeopardizes our position as lawyers. **Mr. Lawlor** said that restoring the Town's credibility and restoring to Ms. LeVasseur is of the paramount importance. Town's position in taking and foreclosing is of the utmost importance.

Mr. Blomgren commented that when you add up all the events in the eyes of the average citizen sees that what has gone on here is fairly substantial. **Mr. Kadison** said that what is **most troublesome** is why the disclosure wasn't made sooner. That's one part of the "innocent mistake"

that's hard to get through - the right hand not knowing what the left hand is doing - it should have. His integrity is the only thing a lawyer has. With Mr. Harrington's years of service to the community Mr. Kadison has a sympathetic view but he won't tolerate dishonesty in his profession.

Mr. Lawlor asked does this in any way change the relationship between the BOS, Town Manager and Town Counsel - we need to find out and ask Mr. Kadison's advice. Mr. Blomgren said he has grave concerns, that he has heard there are other pieces involved.

Mr. Harrington declined to make any statement during the meeting.

Mr. Kadison said there is nothing unusual in revoking foreclosures. Attorney James Coppola handles them for the Town. It comes back to the same issue - we couldn't deliver to the bidder but we have corrected the wrong and now are making good on our promise to the bidder.

Mr. Lawlor said that further comment to the public or press involves a man's future and we owe Mr. Harrington the same privilege that we owe every Town employee, to keep quiet about this matter until we have decided what we are going to do. Mr. Kadison agreed saying that the Board should say nothing other than the statement authorized.

Mr. Lynch then read a draft statement that he will FAX to all involved.

Mr. Joyce said he feels Attorney Shanahan may keep on picking on Mr. Harrington. **Mr. Blomgren** said he is not concerned about Mr. Shanahan but with what has transpired. He passed out a **chronological list of events** and said the events are of concern. He also noted that we discussed **268A issues** with Mr. Harrington when we signed his contract in October and these events occurred during that time.

Mr. Dalton asked under 268A, Barbara Harrington being the Trustee, does that give the appearance or is it really a conflict.

Mr. Kadison said he will look at the nominee trust, which is what Mr. Harrington says he drew. This is common for ownership, what is not common is for the Trustee to be his wife. **Ms. Gates** told him that she does not believe what she reads in the newspapers and wants Mr. Kadison to be a fact finder. Mr. Kadison feels there is a feud between Mr. Harrington and Mr. Shanahan that is like the Hatfields and McCoys.

Mr. Lawlor said we have two goals: 1. to solve the LeVasseur problem and 2. our relationship with Town Counsel - he knows that Mr. Kadison will do this deliberately and carefully.

Mr. Kadison said don't delay too long - the issue should die out after the statement is released. Mr. Dalton said his report should show step by step what should be done.

Motion by Mr. Lawlor, seconded by Mr. Dalton, **to not hear the legal update from Mr. Harrington tonight, to accept his written report** and if we have any questions, to call him. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

At 11:10 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, June 26, 1995 at 10:45 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the session was to discuss collective bargaining and the purchase or sale of real property.

Mr. Lynch said he has drafted a letter to Town Counsel Harrington dated June 26 and read the letter. Mr. Joyce said he will sign the letter as Chairman.

Mr. Lynch had also drafted an ad for an RFP for legal counsel and it was agreed to put advertisements in the Lawyers' Weekly and the MMA Beacon.

Mr. Lynch had also drafted a document on a Firm Portfolio and Practices.

He told the Board that nothing has happened with regards to the **Apple Country Club.**

Mr. Blomgren questioned the **other three parcels that Attorney Harrington vacated.** Ms. Gates asked if we can ratify and Mr. Blomgren said let's ask Attorney Kadison to look into this and advise us to vote to ratify his actions.

Mr. Lawlor amended the Draft of the Legal Ad to include in the second paragraph after five years experience in municipal law counseling "or complimentary legal experience and expertise".

At 11:00 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Wednesday, June 7, 1995. Members present were: Robert P. Joyce, Peter V. Lawlor, William D. Dalton, Susan J. Gates and Roger P. Blomgren. Town Manager Bernard Lynch, Adm. Asst. Judith Carter, Special Counsel Charles Kadison, Town Counsel James Harrington and his Counsel Attorney Philip Nyman were also present.

Chairman Joyce called the meeting to order at 7:45 p.m.

Motion by Mr. Lawlor, seconded by Mr. Dalton unan. to appoint Attorney Charles Kadison as Special Counsel on the Apple Country Club taking.
Motion by Mr. Lawlor, seconded by Mr. Dalton, unan. to appoint Attorney Charles Kadison as Special Counsel on the LeVasseur matter.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to go into Executive Session to discuss the acquisition of real property and the integrity, discipline or dismissal of an employee. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Ms. Gates said that before we discuss either matter she was disturbed to read 24 hours after our last session comments tributed to members of this Board. She doesn't feel comfortable speaking in Executive Session if she doesn't know that what we discussed is said in confidence. She wants to feel comfortable with the people she's sitting with and we don't go public until we're ready. Counsel told us not to comment and stand by the statement of the Board. It's a breach of trust to walk out of this room and speak to anyone, especially reporters. Mr. Joyce said he is also distressed and hopes everyone will take heed, especially with comments involving people and reputations.

Mr. Kadison then gave the Board update on the LeVasseur matter. He said the Land Court allowed his motion to reinstate the vacating of the foreclosure. Mr. Harrington has provided a deed back to the Town of Chelmsford. By giving us the deed it confirms the foreclosure. His one concern is any complaints or objections by creditors on the original foreclosure. He had the title searched and it will be fine when all is done. Ms. LeVasseur has to sign an affidavit and he has done a revised statement. He will record the deed from the Trust to the Town, the ruling from the Judge and the deed to Ms. LeVasseur. The deed says that the Board was authorized by Town Meeting vote to sell the

property.

Mr. Lawlor asked about updated conversation with Atty. Shanahan, her attorney, and Atty. Shanahan said fine, this should resolve the matter and her deposit has been returned. **Mr. Kadison** said he can't talk to her directly, only through Atty. Shanahan and the Town should collect an extra $25.32 from Ms. LeVasseur to record the deed (to be done by Mr. Kadison).

Mr. Joyce asked if we only vacated the LeVasseur property and Mr. Kadison said Yes, he understood that Lot 10 was also included in the parcel, and the others were foreclosed on.
Atty. Kadison said the taxpayer can redeem at anyone of several stages but this was the only one foreclosed on - she got Parcel 10 directly. Mr. Lawlor asked if the release deed has no covenants and Atty. Kadison said True, only the appurtenant rights go with the deed. The order of taking was only on Lot 11.
Mr. Blomgren asked if no matters are relative to the condition, and Atty. Kadison said she takes it as is, and she knows that. Mr. Lawlor said it is not like registered land. Attorney Nyman added that if there was a default in the title when the Town took it, that is what she gets.
Atty. Kadison said that should close the matter as far as Ms. LeVasseur is concerned but the deed needs to be voted on June 12th. We also need to have the Town Clerk authorize the Town Meeting vote to sell the property.

Mr. Lawlor said we've regarded this matter in two tiers, and Ms. LeVasseur's rights have been squared away. Mr. Kadison said he didn't discuss fees with Mr. Shanahan, although he indicated that he is looking for his fees to be paid verbally. He will ask him for numbers and come back to the Board with his bill. Mr. Lawlor said there may be a portion of his bill that may not apply to this case.

Mr. Lawlor said the second tier in the matter is to judge how this matter would impact, if at all, the Board's relationship with Town Counsel. We have asked Atty. Kadison to help the BOS with the chronology as to what occurred. We recognize that he is not judge or jury, but only a fact gatherer for the Board. We are not asking him to sit in judgement.

Attorney Kadison handed out his memo. Motion by Mr. Lawlor, seconded by Mr. Dalton, that the June 7, 1995 memo

of Attorney Kadison be introduced into the record. (See attached). Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Atty. Kadison read the document indicating that Mr. Harrington did not have the authority from the Board to vacate the foreclosure but that he didn't think he was acting in conflict. At the conclusion Mr. Lawlor asked Attys. Harrington and Nyman if they wanted to add anything to the document and Mr. Nyman said No.

Mr. Lawlor said from the factual summarization, given the facts you are aware of, do they suggest to you that there is any action the BOS should take. Atty. Kadison said that what Attorney Harrington did was dumb, but nothing against the interests of the Town. It was inexplicable - this was the subject of land court foreclosure, and he didn't have the authority to vacate that decree. He thought he had implied consent.

Mr. Lawlor asked given the chronology of events, what does he feel needs to be done or should occur to put us back to where we were. Atty. Kadison said that once Ms. LeVasseur's deed is on record and Mr. Shanahan's fees are resolved and paid we should be back to where we were.

Mr. Dalton said his biggest concern is why did Mr. Harrington vacate the order without coming to the BOS when he did that prior to this. The Community feels that Mr. Harrington is guilty and doesn't know how we got into this situation - can you explain.

Atty. Nyman said he disagrees with Atty. Kadison as to whether or not Mr. Harrington had an obligation to come to the BOS. He doesn't believe the statute addresses this issue, and he doesn't see redemption by the real owner in accordance with the law as the sale of town-owned land. He sees it as an issue that has no answer. The real owner could redeem it by filing a petition in the real owner's name for a period beyond one year if it had not been put up for auction or advertised. It appears that the right hand did not know what the left hand was doing. Why it got put on the warrant was that Mr. Manougian reviewed the warrant and approved it as to form and didn't know what Mr. Harrington had done in respect to this property. Nothing improper or illegal was done.

Mr. Nyman said what was done would not necessarily have gone

to the BOS. If he had acted negligently as an attorney he would not have called Town Manager Lynch or Finance Director Fred Mansfield. Maybe he should have gone to the BOS. Mr. Kadison said the taxpayer no longer had the right to redeem the property.

Mr. Harrington said he understands this argument as to what the law is. Why didn't he come to the Board - he perceived it as a Land Court case and the Town has the right of redemption. As he perceives it this is not under the BOS but the Tax Collector and Town Manager. The Erlin Road case was different - the Town wanted to swap Erlin Road to the Shawmut Bank for parking, and thus he came before the BOS to ask for permission to vacate. Mr. Nyman said that Mr. Harrington didn't come to the Board because he didn't think he had to. Mr. Lynch said we had general discussions of how to bring in tax dollars.

Mr. Kadison said he decided to let Atty. Harrington explain. The dilemma is that someone who is our employee has done no intentional wrong doing, with no intent to do evil. Things may have had the appearance of being improper and it is hard to sort out.
Ms. Gates asked when any employee does something that appears to be improper is that reason to terminate. Mr. Kadison said he assumes that Mr. Harrington wouldn't be here if he hadn't served long and well. He would vote to retain him.

Mr. Blomgren said that Mr. Harrington says that sometime during the summer of 1994 Mr. Nickerson told the Town Manager he wanted to redeem his property. Mr. Lynch said he met with Mr. Nickerson, Fred Mansfield and Marian Currier and we had no problem in collecting the taxes. He asked on the last paragraph of Page 1 was Harrington representing Nickerson or the Town and Mr. Harrington said the Town. He asked if there was any concern re Nickerson borrowing money for these redemptions, and Mr. Kadison said he had concerns re the escrow account. He needed to know that funds had gone into the accounts from Barbara Harrington and a McKenna before checks were written on the account. Mr. Harrington said he does not know who McKenna is. Mr. Kadison said he is satisfied that no funds came out of the escrow account before other funds had gone in. Mr. Blomgren asked if there was even an appearance of concern re violation of 268A.

Mr. Joyce said he wanted to know who McKenna was, that there was a gray area in the summer of 1994. Mr. Lynch said there

have always been discussions of Nickerson's properties. Me. Joyce is concerned that this took place on November 1st, after Town Meeting on October 24th. Mr. Harrington should have been aware of the article. On December 24 the Tax Collector notified the Assessors to put the property back on the tax rolls. Mr. Joyce said the last paragraph in Mr. Kadison's document is in direct conflict with what Atty. Nyman said. Mr. Nyman said he doesn't disagree that Mr. Harrington did not have the authority of the BOS, but he didn't think he needed it.

Mr. Lawlor said he feels the correct way for the Board to proceed is that it is appropriate for us to put on the chalkboard the entire range of options, from the termination of Town Counsel up to doing nothing whatsoever.

Mr. Nyman said if this is a hearing to determine termination he is not prepared. He believed he was coming to hear Attorney Kadison's report but if this is a hearing to terminate he will not participate, there was not enough notice.

Mr. Lawlor said we can discuss these parameters but not vote. Atty. Kadison said we should research what the proper notice should be and set up another hearing. Mr. Lynch said if you decide to terminate you must hold a hearing, that his contract says only termination requires a public hearing.

Mr. Kadison said we are considering various options, including termination.
Mr. Lawlor said our feeling is that what we'll do tonight is to discuss the range of our options but won't vote or make findings of fact, other than doing nothing. If we consider termination we will re-notice you. Atty. Nyman said he respects the Board's range of options.
Mr. Lawlor said for the record that we've indicated to Town Counsel and his attorney that we're not voting tonight.

Mr. Lawlor said we should discuss the strengths and weaknesses among ourselves. We are the political arm of the Town and Mr. Kadison sees nothing that indicates wrongdoing. We have an obligation to make the Town function right or look that way.
Mr. Blomgren said we were told by Mr. Harrington in April that there were no problems with conflicts. Mr. Nyman commented that he is not impressed with one-sided reporting

The options listed by the Board were:

Options:

1. Termination - forthwith - immediate
2. Removal for cause by July 1
3. Removal for cause by September 1
4. Non-renewal of appointment as of July 1
5. Reprimand/discipline Town Counsel short of resignation
6. Non-renewal with statement
7. Retirement/resignation/withdrawal
8. Do nothing

Issues:

1. Existing contract
2. Substitute counsel
3. Financial exposure
4. Conduct inconsistent
5. Standards - real - perceived
6. Years of service to Town
7. Political realities

Mr. Lawlor said what he'd like to do is to hear from Mr. Harrington or his counsel on issue #1 - existing contract. Mr. Nyman said this is a contract that is binding and he's prepared to enforce it.

Ms. Gates said what's been in the press and the pressure from the citizens of the Town - we are elected officials and have to face that.

Mr. Lawlor said Issue #2 - substitute counsel - what would be the process - interviewing and ultimate hiring - what time frame are we looking at - what are the ramifications of going without Town Counsel for some time? Mr. Lynch said it is not wise to go without Town Counsel, we really need to have someone, and there are a number of firms that practice municipal law.

Mr. Nyman asked about the tone of transition. Mr. Lawlor asked Mr. Lynch and Mr. Joyce what they would see as protocol. Mr Lynch said for long term probably 2 - 2 1/2 months. Mr. Joyce asked if the BOS would appoint a subcommittee - maybe 2 BOS, the Town Manager and maybe an attorney - to look into our legal needs.

At 9:30 p.m. Mr. Dalton left the meeting.

Mr. Lawlor asked what is the feasibility of some interim

lawyer who could babysit litigation, and Mr. Lynch said there are people we could use.

Mr. Joyce asked about financial exposure and Mr. Lawlor said let's pick the Fall Town Meeting. Mr. Lynch said the warrant has to be posted the first week in October and new counsel would help prepare articles and review for Town Meeting. He asked Mr. Harrington if we are presently scheduled for trials, and Mr. Harrington said No.

Mr. Lawlor said factually we know what occurred and with the permission of Town Counsel and his counsel I would like to have Board discussions with no vote in his absence.

At 9:40 p.m. Mr. Harrington and Mr. Nyman left the meeting. Mr. Harrington will be at home for the rest of the evening if the BOS has any questions. Mr. Blomgren gave his personal chronological list to Atty. Nyman.

Mr. Lawlor said our options now includes non-renewal to termination and the 3 other members agreed.
Mr. Blomgren asked if the BOS agrees that due process was served and Ms. Gates and Atty. Kadison would have referred to the contract and notify him of a hearing to remove for cause.

Atty. Kadison said there are two different issues: 1. Was this a proper Executive Session? Yes. 2. Was he properly notified under the contract? No.

Option #1 is eliminated. Mr. Lawlor said option 5 is only available if combined with one of the other options. Atty. Kadison said that a reprimand with repayment of costs would be the mildest form. Mr. Lawlor said we have told him issues where he is in conflict and Mr. Blomgren said we have been very specific.
We have two broad categories of options: 1. July 1st termination and 2. Sept. 1st termination or separation of service. The most gratifying for the Town would be July 1st, with a statement of cause and effect. Mr. Lawlor said he doubts it by July 1st but would push for September 1st which will achieve for us every goal that we want. We wouldn't re-appoint on July 1st for two months. We should appoint a subcommittee to study future legal services. It would be appropriate for someone to say he's going to reimburse the Town for the fees for Atty. Kadison nd Atty. Shanahan.

Mr. Lawlor said we can give him options - to resign with dignity on Sept. 1st or non-reappointment on Sept. 1st. Mr. Blomgren asked if the BOS could chose not to reappoint for cause. Atty. Kadison advised the BOS to give him choices and leave it up to him how he wants to go.

If he did a graceful resignation he could announce at the next meeting can announce that he's not seeking reappointment.

Mr. Lynch said that the best scenario would be:

- Release of report and statement
- Graceful resignation by 9/1/95
- Subcommittee formed to review legal services
- Fees for Shanahan and Kadison to be paid by Harrington

The Board will meet in Executive Session on June 12 at 6:45 pm to approve the statement and release of the report.

Chairman Joyce and Vice Chairman Lawlor will go to Mr. Harrington and lay the cards on the table: we're appointing a sub-committee on June 26, and if you don't resign we'll hold a hearing to remove you.

The Board took a short break and reconvened at 10:30 pm to discuss Apple Country Club.

Atty. Kadison said that this is a hornet's nest - it was going to be a simple taking and the appraisals have been done. Under CH61B if the land was sold for any purpose other than recreational there would be a rollback tax due - what was taxed vs. what could have been taxed. The amount is 228,000 based on 10 years. John Avery has done a tentative appraisal for $1.1 mil. A willing buyer would pay a willing seller for the entire course. The appraisal was based on a single family subdivision as best use. We have to figure rollback taxes if bought or taken by the Town are not applicable. If we delay the taking until after July 1st Earl Carlson will be saddled with the tax. If we do the taking (give him $1.1) he'll have to pay the rollback and then we'll take the land for $1.1mil.
He feels we don't want to use the right of first refusal because only 29 acres out of the 31 acre parcel fall under 61B. This does not include the clubhouse and 1st tee parcel of 9700 sq. ft. and a practice range of 3.9 acres including wetlands which could be used for nursery stock.
The option from Atty. Shanahan was for $1 mil according to

Mr. Carlson's attorney. If Mr. Carlson gets $1 mil and Atty. Shanahan $100,000 for his option and if taking rollback taxes is not applicable, the actual cost would be $1,328,000.

Mr. Kadison recommended letting the 61B option expire and rollback taxes are due. Have Mr. Avery reassess for $1.1 mil, Mr. Carlson pays the $228,000 rollback taxes and we get it for under $1 mil. 61B was denied in the tenth year - the Board of Assessors did not act in time so a default is a denial.

We can take the 29 acres under 61B. If Attorney Shanahan goes to the press we are looking out for the best interests of the Town. Atty. Kadison read Ch61B re rollback taxes - during years 1 - 5 there is a 5% conveyance fee.

Mr.. Lynch said that the other element is that Earl Carlson wants to run the golf course for his own benefit for this season.

Atty. Kadison recommended that the Board let it out to the media that an offer was made to Atty. Shanahan and he rejected it. We are waiting for the appraiser's final revisions which won't be final until Wednesday, June 14th.

At 11:15 pm motion by Mr. Lawlor, seconded by Ms. Gates, to adjourn. Roll Call vote was as follows: PVL-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Reconvened Executive Session of the Board of Selectmen held Monday, June 12, 1995 at 10:45 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith E. Carter were also present.

Mr. Lawlor said the reasons to resume Executive Session are those that were given at the earlier session - to discuss pending contracts, possible litigation and the discipline or dismissal of a Town employee.

Mr. Lawlor said that he and Mr. Joyce have tried their best on the Harrington matter and we need to have something we all agree on. We have publicly issued a statement tonight and will form a sub-committee on June 26th. Between now and then we will speak to Atty. Harrington or Atty. Nyman and tell them that the BOS has voted to take action on this definitively, that this is the statement of the Board. Mr. Blomgren said that the announcement of the formation of a committee will indicate change.

Mr. Lawlor said we have to take some action and not sit quietly until September. On June 26th we will apppoint a sub-committee whose purpose will be to make recommendations to the BOS as to how our future needs can best be met and then look to hire a new Town Counsel. On the Sept. 1st date we no longer want Jim Harrington for Town Counsel and want substitute counsel.

Mr. Lynch commented that petition articles for the Fall ATM are due August 1st and can take 6 weeks to process. Mr. Lawlor asked where would we advertise for legal services and Mr. Lynch said the MMA Beacon and local papers but the Beacon ad won't appear until the 3rd week in July. He said we don't have to advertise - we could send out RFP's or use the Lawyer's Weekly. Mr. Lawlor said for purposes of integrity he doesn't want this fed to anyone. Mr. Dalton said he wants it done ASAP, even if there are additional costs incurred.

The Board came up with the following chronology:

Sub-committee formed June 26
- legal needs analyzed

Town Counsel Not Re-appointed (Effective July 1, 1995)	June 26
RFP Issued	June 27
Proposals Due By	July 20
Proposals Review	July 24 - August 7
Finalists Recommended and Interviewed	August 14
New Town Counsel	Sept. 1

Mr. Lawlor said that finalists will be recommended to and interviewed by the BOS on August 14. He asked Mr. Lynch if this is time for him and the sub-committee to screen and review and interview and narrow down to 3. Mr. Lawlor said that he wants the BOS to craft what we want from the finalists.

Mr. Lawlor said he feels that if we don't renew, Mr. Harrington and Atty. Nyquist will call for Town Counsel's salary to be paid through June, 1996. Mr. Lynch asked if we will need Special Counsel and Ms. Gates asked where did this contract come from and Mr. Blomgren said other contracts. Mr. Lynch said that the official contract came from his contract, which was drafted by Dee Moschos.

Ms. Gates said we don't need outside counsel and Mr. Lynch said when Atty. Nyman sues - what do we do when he sues? Mr. Lawlor said hiring outside Counsel exacerbates the issue. Mr. Blomgren commented that the consequences he's going to be faced with - he needs us to help him. **Mr. Joyce said we will procede without counsel.**

Mr. Lawlor said he will speak with Atty. Nyman and may say a majority of the Board and won't give names if it makes any member of the Board feel uncomfortable. All our goals are achieved if hostility is avoided. After discussion Mr. Lawlor will say it represents the unanimous feeling of the Board. Mr. Joyce said he will appoint the sub-committee and ask for a vote of support from the Board at the June 26th meeting.

Mr. Joyce then asked if it is the unanimous opinion of the Board to approve this time frame and all members said Yes. Mr. Lawlor asked Mr. Lynch if we are acting precipitously

here and Mr. Lynch said No, it's all warranted. He hopes we can work it out with Mr. Harrington in the next two weeks. Mr. Lawlor said if he talks with Mr. Nyman tomorrow and he tells Mr. Harrington all hell will break loose.
Mr. Lynch said the question to Mr. Harrington is "Do you tell us that on July 1 you do not want to be reappointed, or do we vote not to reappoint you?" Mr. Joyce asked to go with Mr. Lawlor and Mr. Lynch to meet with Aty. Nyman.

Mr. Lawlor said that we should send a letter to Atty. Shanahan that we have our appraisal, and Mr. Lynch said that Atty. Kadison told us that we should ignore him.

Mr. Lynch told the Board that re **collective bargaining** the Police Union and Superior Officers Union are both going to the Joint Labor Management Committee.

Mr. Lynch reported that he has met with Mike Pappafagos, **Lighthouse School Director** and he still hasn't found a place to move his school and he's looking for $1 mil to move out.

Mr. Joyce said the BOS never gives Mr. Lynch any input on collective bargaining and he said give me any input that you want - he wants to have common directives. Mr. Lawlor said he also thinks the BOS should be giving input.

Mr. Lynch said that at this point in time he has met with every union except Fire. He added that there is some money in the 5 year plan to cover small raises in some years.

At 11:45 pm motion by Mr. Lawlor, seconded by Mr. Dalton, unan. to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, June 12, 1995 at 6:45 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates Roger A. Blomgren. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were present, as were members of the Cable TV Committee and their attorney Peter Epstein.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to **go into Executive Session to discuss pending contracts, possible litigation and discipline or dismissal of a Town employee.** Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye.

Atty. Epstein said he is here about the renewal agreement and transfer agreement from Colony TV to Continental. The 120 days expires tomorrow and there is no statutory reason for the Board to deny the transfer. Continental will pick up where Colony left off in negotiating a new contract. We don't have final agreement with Colony re access equipment. If the BOS denies the transfer the appeal process goes to the State Commission and the Town would lose, since the companies have done what they're supposed to do.

Cy Locke, CH Cable TV Advisory Commission, said there is no vote of his commission yet but he will poll them tonight. Mr. Epstein said that Cable 6 is not part of the transfer agreement of the cable companies but Continental is most likely to keep this service, and they could incorporate it with their New England News. He hasn't seen anything in the Lowell contract about Cable 6 and Tewksbury has settled their contract but he doesn't know if Cable 6 was included. Mr. Locke said all the CATV members are present but Mr. Sartz but since their meeting is not posted they cannot vote tonight. He also said that the Commission has no potential objectives. The transfer will be voted in Open Session.

Atty. Epstein told the Board that re the renewal Bruce Clark is playing cozy on the equipment grant and he believes that is because of the agreement with Lowell. They are offering 5% funding, $225,000 with an advance of $175,000 + interest, which is not in the best interests of the Town. We have two weeks to take some action on this. If we don't reach an agreement by June 29th we can extend or deny.

He said we have two choices: basically to move on their $175,000 advance but with no interest or to decrease the equipment grant request to $350,000. He said the BOS

shouldn't deny tonight - he wants to make one more try with Colony and try to save some of the things we've obtained. **It is appropriate tonight to: 1. sign the transfer and 2. tell Colony that their proposal is not acceptable. He will give a brief update after they sign the transfer tonight.** The message will be strong that we're not satisfied - that 4% and a $400,000 equipment grant is the fair offer that we made to Colony - if that's not acceptable we will continue to negotiate. Mr. Locke commented that Tewksbury didn't really get anything.

Mr. Epstein and the CATV Commission left the meeting at 7:05 pm.

Mr. Joyce read the statement on the LeVasseur matter prepared by Atty. Kadison, and said that as a BOS member he is not satisfied that there was no wrong doing on the part of Town Counsel.

Mr. Lawlor said that the middle of last week Mr. Harrington said he would tender his request to not be re-appointed by mid-July, would offer tonight to pay Atty. Kadison's bill, understood that the BOS was appointing a sub-committee and as of September 1st he would no longer be Town Counsel. He **called Attorney Nyman on Friday** and Mr. Harrington had met with his people, and said he would leave Sept. 1st but not make payment to Atty. Kadison, and won't give his notice until Sept. 1st. If the BOS wants a fight he will give them one - he knows of other acts of conflict by BOS members. He will put this in writing to the Board but not make it public.

Ms. Gates said we should put "intentional" before wrongdoing in the statement and that we should make the statement and form the subcommittee. Mr. Lynch recommended that the BOS give him some time, that Mr. Harrington is feeling boxed in and saying things that are way out of line.

Mr. Lawlor said he spoke with Phil Nyman on Friday and told him of the dramatic change on the part of Mr. Harrington and spoke with him at 4 pm and he said there was no change in his position. Mr. Harrington was angered by what was in The Column (article in Lowell Sunday newspaper).
Mr. Lawlor said he forwarded a copy of Kadison's statement to Attys. Nyman and Harrington, with a cover letter, but has received no response.

Mr. Dalton said we've done nothing wrong - he has supported

Mr. Harrington but doesn't like being threatened. Mr. Lawlor said that no one should see the minutes or tapes of these meetings.
Ms. Gates re-drafted the statement on the LeVasseur matter.

At 7:25 pm Attorney Kadison arrived at the meeting. Ms. Gates showed him her draft of the statement. Mr. Joyce said we will read the statement and release the report tonight.

Mr. Lawlor said the only action item to consider tonight is do we appoint a subcommittee - our credibility is worth paying attention to.
Mr. Joyce said appoint tonight.
Ms. Gates said No, we told him what we were going to do - we have plan and won't be swayed because we believe it's the right thing to do. We should appoint the sub-committee on the 26th.
Mr. Lawlor said he wants to do something like we all do, but we should wait two weeks.

Mr. Kadison told the Board that he had a bill from Atty. Shanahan in the amount of $1,389.27 for his work for Ms. LeVasseur.

At 7:35 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn to Open Session. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; RAB-Aye and RPJ-Aye. The session will continue after the Open Meeting.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Tuesday, August 15, 1995 at 9:25 p.m. Members present were: Peter V. Lawlor, William F. Dalton, Susan J. Gates and Robert P. Joyce. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to go into Executive Session to discuss Collective Bargaining and Acquisition of Real Property. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye and RPJ-Aye.

Mr. Lynch said he is going to the Planning Board next week re rezoning for Adult Entertainment on a parcel of land near Industrial Avenue - Kopelman & Paige feel our present by-law for Adult Entertainment may not hold up if challenged.

He reported that Attorney Joseph Shanahan has said he will be willing to make a deal re Apple Country Club so he won't sue the Town. Mr. Lawlor said that actions he could take include: land damage case or saying that we took the property by eminent domain for a non-profit purpose and are not using it for that purpose. He's holding out for $1.25 mil. Mr. Joyce said the Board feels that he's finished and the BOS is finished with him. The check for Apple Country Club will be ready Friday.

Re the Cable TV Contract Mr. Lynch said that negotiations are still stalled, that we are still talking to Lowell Cable and Continental will not start until Jan. 1, 1996. Ms. Gates will be the new liaison to the Cable TV Commission. Mr. Lynch said we didn't bargain in the best of faith - that we put out numbers and then changed them. Mr. Lynch added that if it goes to court, the Town will lose.

Mr. Lynch reported that re the Library Union negotiations we have reached a tentative agreement - 2 years at 2 and 2. They will get back to him and he said it appears to be collusion.

The Superior Officers (Police) are asking for a 1-year contract, that most unions are asking for only 1 year. The Superior Officers want to wait until the Patrolmen settle, and they may also ask for a 1-year contract. We won't sign a parity agreement because that's illegal and will give no re-opener clauses.
The IBPO is looking for 2 and 2 split, for one year. Last year they earned $570,000 on detail work and the Town got app. $30,000 for administering. We have to change our street opening by-law at Town Meeting if we want to use flagmen.
We are now looking for an accounting from each company that uses detail men - Gas, Mass. Electric, Sewer Contractors.
Mr. Lawlor said to Mr. Lynch that when he comes to the BOS with a settled contract. Mr. Lawlor needs to know how it fits into the 5-year plan.

Mr. Lynch said if we can pay cash for the golf course it will free up debt and interest. If we can take the money from Free Cash it will save $165,000 per year for 10 years.

At 10:00 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, August 28, 1995 at 7:00 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor and Susan J. Gates. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present, as well as Attorneys Joel Bard and Richard Bowen, from the Interim Town Counsel firm of Kopelman & Paige. Police Chief Armand Caron and Lt. Frank Roark were also present.

Mr. Lynch said the issue is the Princeton Lounge and the adult entertainment taking place there, and what can the BOS do. There are license issues as well as criminal issues. Bldg. Inspector Tony Zagzoug has issued a Cease and Desist order, we have found that Board of Health licenses have expired, as well as their Sunday Entertainment license. There has been a change in the use of The Princeton since a year ago. There is an auction scheduled on the property for September 15th.

Attorney Bard said that the overview is that we can't regulate their First Amendment protected activities and we can't regulate their freedom of expression. The consequence is that they can bring a Civil Rights suit against the Town and we need to be careful how we approach it.

Steps for long and short term approaches to the problem were discussed. Under Chapter 140, Sec. 183A, Entertainment Licensing, a written application has to be filed stating what type of entertainment is being proposed. If there is nudity it has to state what body parts will be exposed. In the case of The Princeton their attorney filed a letter dated 6/22/94 stating that it is not the intent of his client to have any entertainment that would include nudity in any form. If there is a violation of this statute the BOS can file criminal charges.
They are also in violation of 204 CMR 2.05(2), stating that no licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to

take place on the licensed premises.

The attorneys advised the Board that they can hold a public hearing by sending a notice at least 7 days prior, stating the charges and hold the hearing. calling the Police Dept. as witnesses. The motions from said hearing would state that we found violations on the dates testified to.
For a first time violation a 7 day suspension is punishment. We don't want to save up all the violations and hear them all at once. The ABCC will initially hear this matter and they believe in the educational merits of punishments. We will have to treat all these violations as a first offense and we should keep ending out notices as long as they are in violation.
Attorney Bowen said not to go less than seven days in notifying of the hearing, that we have to state the charges and give them time to prepare. Notice should be sent by Certified Mail or served by the Police Department and the hearing should not take place before Sept. 6 or 7.

Mr. Lawlor asked if we can seek injunctive relief as a component and Attorney Bowen explained that it would depend on the judge, whether he was liberal or conservative. Attorney Bard said the chances are better that you won't get it than that you will.

Police Chief Caron said if he keeps operating like this criminally we'll put them out of business eventually for lewd and lascivious acts. Mr. Bard told the Chief to handle this like any other criminal investigation.

Mr. Lynch noted that their food licenses have expired and Mr. Bard said that it is not 100% clear, but if they're serving alcohol under their All Alcoholic Common Victualer license they have to serve food.

Mr. Lawlor asked about using eminent domain to take over the lease and noted that there are 2 interests: 1. Bud Andrews who has the ownership of fee and 2. the lessee, or
tenant. Mr Bard noted that it is difficult to fight an eminent domain proceeding, and Mr. Lynch said we could take it for the purpose of using it as a community center. Ms. Gates asked if we lose are they grandfathered in and Mr. Bard answered that the Town's by-law is still valid unless the court finds it invalid.

Mr. Lynch said that we will need 2 motions: to call for a hearing and to seek an injunction.

At 7:55 p.m. motion by Mr. Lawlor, seconded by Ms. Gates to adjourn to Open Session. Roll Call vote was as follows: PVL-Aye; SJG-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, September 11, 1995 at 1:00 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton and Susan J. Gates. Town Manager Bernard Lynch, Adm. Asst. and Attorney Peter Epstein were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton to go into Executive Session **to discuss contract negotiations.** Roll Call vote was all Ayes.

Mr Lynch told the Board that we are **still negotiating with Colony Communications on the Cable TV contract** and said that the figures are changing: it is now $300,000 for the capital grant and a 4.25 access fee. Mr. Epstein said that the maximum access figure allowed by law is 5% and state and federal taxes are taken out, so we compromised at 4.25%. Mr. Lynch said that we are now down to language - level playing fields and revenues.

Mr. Epstein said we need to **clean up language** relative to any other cable operator coming into Town we will require exactly the same things. He said this is unlikely. If any unlicensed vendor (Nynex, etc.) comes into Town we would have to amend the license accordingly - an automatic amendment. Mr. Epstein said why would we ever agree to either one of these clauses. He has drafted language to submit to them. He noted that the definition of gross revenues was drafted by JoAnne Somers of Colony.

They will build a fiber optic/coaxial cable hybrid I-Net and we will require that they tell us what equipment they'll put at the Parker School. Mr. Epstein said he hopes we can settle a lot when we meet with them today and maybe get a draft contract.

Mr. Epstein said that **level playing field** is a big issue and explained what the BOS might do. He said his proposed language is the minimum that will be acceptable to them and we're still negotiating everything that's on the table. Our current contract expires on September 29 and we could have a draft to sign by then. We can't legally extend the license under Mass. General Laws and if the BOS couldn't reach a decision we would have to go through an administrative procedure. He said that we've reached agreement on substance issues and don't get trapped in a level playing field. He doesn't know why they can't agree.

Mr. Joyce said he would like to see another spread sheet of

where we are now.

Mr. Epstein said that the difference between 4% and 4.25% with a #300,000 access is $100,000. The term is not that big a deal. The BOS got the big item - the institutional network, and is getting a much better deal than Lowell and Tewksbury. It addresses what the CATV Committee wanted, and they did agree to a Senior Discount.

At 1:20 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E Carter

Executive Session of the Board of Selectmen held Thursday, October 12, 1995 at 9:45 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton and Susan J. Gates. Bernard Lynch, Town Manager and Judith Carter, Adm. Asst. were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to go into Executive Session to discuss collective bargaining, pending litigation and acquisition of real property. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye and RPJ-Aye.

Mr. Dalton left the room while the BOS discussed collective bargaining.

Mr. Lynch told the Board that he is concerned about ratifying contracts. The School Union hasn't settled yet - they want 4% and 4%, and we will go for 2% and 3%. The grid will benefit us although now there are only 22 teachers at the lowest grid.

The Joint Labor Management Committee will look at our Free Cash and pay what's asked.
Mr. Lynch said he would like to settle now all the contracts that are manageable now.

The Fire Dept. contract is costing 5% over 2 years.

The Clerical Union has settled for 2% plus a step for 2 years; dispatchers $2.00 per hour over the life of the contract which is necessary to be competitive with other Towns due to the implementation of E-911.
Motion by Mr. Lawlor, seconded by Ms. Gates, to ratify the Clerical Union contract. Roll Call vote was as follows: PVL-Aye; SJG-Aye and RPJ-Aye.

Mr. Lynch said the Police negotiations were wrapped up yesterday. Mr. Lawlor said he doesn't like 2-2-2, but Mr. Lynch said that was the only way they would settle. Mr. Joyce commented that the morale seems good in all departments.

Mr. Dalton rejoined the meeting and there was discussion of the Apple Country Club.

Mr. Lynch said that Earl Carlson had come in yesterday asking where does he stand? that he needs insurance and fertilizer on the greens and has 6 inside events scheduled for November/December.
Mr. Lawlor suggested that we appoint a BOS member to meet with Mr. Lynch and the Apple people. Mr. Lynch and Mr. Dalton both said that there is value in keeping some of the equipment.
Mr. Carlson assigned his right to Attorney Joseph Shanahan for rollback taxes. Mr. Lynch said the figure to get Mr. Carlson out and get his equipment would be $1,030,000 - $1,040,000. Mr. Carlson can file in Land Court for $12,000 - the difference between the $1 mil he was offered and the $988,000 we paid him.
Mr. Lawlor said that Attorney Shanahan says he has the right to pursue rollback taxes and all damages in excess of $1 mil.

Mr. Lynch said we could satisfy Earl Carlson with buying of the equipment, two more months of leasing for $12,000 and purchase of the 4 acres for $52,000. Mr. Lawlor said he wants to hear from Kopelman & Paige what Earl Carlson's rights are.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to release the minutes of the Executive Session of January 8, 1990 dealing with Adult Entertainment zoning. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye and RPJ-Aye.

At 11:00 p.m. motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye and RPJ-Aye.

For the Board of Selectmen, by

Debb E. Carter

Executive Session of the Board of Selectmen held Thursday, October 19, 1995 at 6:45 p.m. at the Senior Center. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Motion by Ms. Gates, seconded by Mr. Welch, to go into Executive Session to discuss Collective Bargaining. Roll Call vote was as follows: SJG-Aye; TJW-Aye and RPJ-Aye. Mr. Dalton did not vote and left the room during the discussion.

Mr. Lynch told the BOS that the School Department Teachers and Nurses have settled their contract. It is a 2 year contract, with a 10 step grid for new employees. They will get 2% the first year, 2% on 7/1/96 and 2% on the 91st day of the school year in FY97. They will get a $1,000 one time payment for accepting the grid.

Mr. Lawlor arrived at the meeting. Mr. Lynch said that the teachers' contract will increase the base budget by $516,000 and the total this year by $800,000+.

Mr. Lynch said there are 4 contracts to be ratified. Fire and Police have rejected 2% the first year and a 2-2 split the second year.

The Clerical Union has settled for 2% for each of the 2 years except the dispatchers who will receive $.50 per hour on 4 dates over the next 2 years to make the position competitive with other towns. They also have a $15 per week night shift differential. The rest of the clerical union will get 2% plus a step increase.
Motion by Mr. Lawlor, seconded by Ms. Gates, to ratify the Clerical Union contract. Roll Call vote was as follows: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

The Highway and Cemetery Unions have settled for a 2 year contract, with 2% each year, plus a 2% equity adjustment the first of each FY and a $500 signing bonus, for a net of 6.
Mr. Lawlor said so he has conceded 6% across the board and asked if this impacts bargaining the bargaining position with Police and Fire. Mr. Lawlor added that he is not crazy about a net of 6, but he can understand it.
Motion by Mr. Lawlor, seconded by Ms. Gates, to ratify the Highway and Cemetery contracts. Roll Call vote was follows: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

Mr. Lynch said the Library Union settled for a 2 year, 2% each year contract, with changes in Sick Leave language.
Motion by Mr. Lawlor, seconded by Ms. Gates, to ratify the Library contract. Roll Call vote was as follows: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

Motion by Mr. Lawlor, seconded by Ms. Gates, to ratify the Superior Officers contract. Roll Call vote was as follows: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

The Board discussed the release of the Executive Session minutes from the Independent for the past summer's meetings was discussed. Mr. Joyce said we will review them and vote at the next meeting.

At 7:15 pm motion by Mr. Lawlor, seconded by Ms. Gates, to go out of Executive Session. Roll Call vote was as follows:
PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

An Executive Session of the Board of Selectmen was held on October 23, 1995 at 7:00 p.m. at the Senior Center. BOS members present were: Chairman Joyce, P. Lawlor, B. Dalton, S. Gates, T. Welch, Town Manager Lynch and Town Counsel John Giorgio.

Mr. Joyce asked for a roll call vote to go into Executive Session for the purpose of real property and pending litigation. Mr. Joyce-aye, Mr. Lawlor-aye, Mr. Dalton-aye, Ms. Gates-aye, Mr. Welch-aye.

Mr. Lynch brought the Board up to date on his negotiations with Earl Carlson on the Apple Country Club. Town Counsel requested a copy of the appraisal and stated that a second appraisal may be needed because Mr. Shanahan is looking for damages, but we do not have to get another one at this time.

Mr. Lynch reported that $52,000. for the golf equipment would be a good deal. Mr. Lawlor asked if there had been any verification of the equipment. Mr. Lynch reported that the D.P.W. will check the equipment and provide him with a list of the inventory.

Mr. Lawlor made a motion to authorize Mr. Lynch to offer up to $50,000. for the acquisition of the equipment with the parcel of land, make an effort to have the BOS review the offer before it goes out, occupancy for November and December with Mr. Carlson be no lower that $3,000. due to the following conditions: the title, equipment to be inspected and UCC's in good standing. Mr. Dalton seconded. Mr. Joyce polled the Board: Mr Lawlor-aye, Mr. Dalton-aye, Ms. Gates,aye, Mr. Welch-aye, Mr. Joyce-aye.

Mr. Lawlor made a motion to end the Executive Session, seconded by Mr. Dalton. Roll count vote unanimous ayes.

Sel. Dalton asked Mr. Giorgio if Mr. Lynch has the appointing authority for the Education Fund that is being presented tonight in a Warrant Article. Mr. Giorgio said that Mr. Lynch has the authority to appoint the committee under the charter.

There being no further business the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Marian D. Currier

Marian D. Currier

Executive Session of the Board of Selectmen held Monday, November 6, 1995 at 9:50 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to go into Executive Session to discuss contracts, collective bargaining and litigation. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

Mr. Lynch told the Board that re the Apple Country Club Earl Carlson wants to stay and do closeout work at the course, fertilizing greens and getting ready for winter. We need him to move his equipment out of DeWolfe's shed on their property. We will move all the equipment onto the course and put up a trailer. We will move the backhoe and tractor up to the Highway garage. Mr. Carlson doesn't want to pay anything but he has us over a barrel, and he is paying utilities. We could pay him $52,000 on Dec. 31st and work off the inventory lists that he gave us. Mr. Lynch will give the BOS copies of the agreement that Mr. Carlson had with Attorney Joe Shanahan.

$52,000 will cover the equipment, all personal property and the land settlement. He pays nothing to us for the next 2 months but he pays all operational and insurance costs and for winterization and closeout.
Motion by Mr. Lawlor, seconded by Mr. Dalton, that the Board authorize the Town Manager acting on behalf of the Town to settle with Apple Country Club Inc. all items listed above.
Roll Call vote was as follows: PVL-Aye: WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

Re Cable TV, Mr. Lynch said that we are in agreement now with Lowell Cable and ready to move forward with public access - $300,000 equipment, and 4.25% access fee, which is app. $1.30 - $1.40 on residents' bills, effective January 1, 1996. They have to notify customers with their bills where the access fee is going. The Board wants a joint letter to go to customers from the Town and Cable TV. He noted that the cost for coverage for BOS meetings for years has come from the School Dept.
The contract says that the contract corporation supervises and operates the public access channels. He and Kopelman & Paige are preparing a contract with them. The $300,000 has to be paid to the designated corporation. Mr. Lynch is calling for 3-year terms for a 7 member Board, 3 of which are Town officials - 1 School Committee member, 1 BOS member and 1 representative from the Town Manager's office.

The role of the CATV Advisory Commission will be to oversee the technical operations, quality of programming and complaints from subscribers. The first year they will also oversee building the studio.

Mr. Lynch's contract was discussed, with Mr. Lawlor stating that if the BOS decides not to renew it, we need to vote in December. We won't have to pay him beyond June 30th if we notify him then.
Mr. Joyce said he got the opinion that the BOS didn't want to do a formal review.

Mr. Lawlor reviewed the process used last year.
The Town Manager goals will be presented at the December 11th meeting. Mr. Lynch said he wants to know the duration of his contract in December.

Mr. Lawlor said we have binary decisions: do we extend beyond June 30, or not take a vote in December; and at the same time we do his evaluation and then proceed to negotiate the contract.
Ms. Gates said she feels it is inappropriate to give anyone in that position an 18-month contract.
Mr. Lawlor said we need to ask him what we expect from him - a salary survey, a compilation of his compensation packages, etc. Mr. Lynch will make his presentation to the Board on November 16th and include:

1. BFL presentation on goals
2. BFL proposed package (what he wants for $, etc.)
3. Salary survey
4. Compensation package history
5. Past year's evaluations
6. BFL proposed goals for upcoming year
7. Have BFL and RPJ work together on written form

Mr. Lawlor said that on November 16th the BOS will be prepared to notify Mr. Lynch that we will not be notifying him of any intent to not renew his contract.

Mr. Dalton told the Board that until the Fire Union contract is settled, he can't participate in any bargaining.

At 10:45 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, November 16, 1995 at 10:30 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present. The purpose of the session is to discuss collective bargaining and contractual negotiations.

Mr. Lynch reported that the non-profit cable TV group has been given a memorandum of understanding and they have a Board meeting tonight. We won't be able to sign until December 11th, and want to see if we can get money into the account that they can't access.

Mr. Lynch reported that re Apple Country Club, we are getting a settlement agreement back from Kopelman & Paige. Ed Jamros has listed all the equipment and will transfer it onto the site. Earl Carlson wants to see the document before he agrees to it.

At 10:35 pm Mr. Dalton left the room since he cannot participate in the Town Manager's evaluation because the Fire
Dept. union contract is not yet settled.

Mr. Lynch said that he is proposing that he receive a 4% increase for FY96, to $84,250 plus an additional 5 vacation days and freeze his buy-back accumulation at the 95 level, to be bought back over the next 4 years. The salary survey that the Town of Stoneham had done shows that the average Town Manager gets $82,975 plus a car allowance. Mr. Welch said he would like to see the size of the budgets that they manage.

The Board said that the action they take tonight will be to vote to not terminate the Town Manager effective June 30, 1996.

At 10:50 p.m. Mr. Lynch left the room.

Mr. Lawlor said there are 3 issues: the credibility of the offer, the duration of the contract and compensation.

Motion by Mr. Lawlor, seconded by Ms. Gates, to extend his contract for 3 years effective July 1, 1996 and for the purpose of compensation it will be not less than 2% effective July 1st, and all other items are under negotiation. Roll Call vote on Mr. Lawlor's motion was: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

Mr. Lynch came back into the room at 11:05 p.m.

Mr. Joyce told him the Board's offer, and Mr. Lynch said that there was no compensation given him during FY96. Mr. Lawlor said that re 7/1/95 - 6/30/96, we will consider the compensation.

Mr. Welch told Mr. Lynch he feels the BOS has given him a strong vote of confidence.

At 11:15 pm motion by Mr. Lawlor, seconded by Ms. Gates, to adjourn the meeting. Roll Call vote was as follows: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith C. Carter

Executive Session of the Board of Selectmen held Monday, December 11, 1995 at 9:45 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, Susan J. Gates and Thomas J. Welch. Selectman William F. Dalton did not attend the sesssion since as a member of the Fire Dept. union he would be in conflict discussing the Town Manager's contract. Town Manager Bernard F. Lynch and Adm. Asst. Judith Carter were also present.

Mr. Lynch gave members a graph showing his increases over the past four Fiscal Years compared with other non-union employees. They have received 4 increases and he has received only 3 at a smaller percentage. His $3600 car allowance was added to his base salary but he still collects mileage. The Stoneham survey shows that his salary is below average and the others receive either a Town car or monthly car allowance.

Mr. Lawlor noted that through 7/1/95 he has received an increase of 11% since 7/1/92, an average of 3.28% per year.
He went over Mr. Lynch's proposals: 7/1/95 - 7/1/96 - 4%; 7/1/96 - 7/1/97 - 4%; he has the right to come to the BOS for approval to teach; increase vacation days from 15 to 20; cap off the value of his sick and vacation buyback accounts and let him buy back at his current salary over the next 4 years - he now has 119 1/2 total sick and vacation days; still receive mileage and no language changes. Mr. Lynch said he has 9 years of full time employment with the Town.

At 10:00 pm Mr. Lynch left the room. Mr. Lawlor said that what we tell him is what it will be. The BOS discussed buy-back at the current rates, noting that this is a liability that will grow and it is reasonable to pay it out over the next 4 years at $40K. The taxpayers will pay more for it later.
The Board will continue to pay him mileage.
His vacation will be increased to 20 days on 7/1/96.

As for the percentage of increases, the BOS said that he wants 19 1/2% from 7/1/92 - 7/1/96, which is 4.875% per year, and he's probably making in the top 5% in the State.

Motion by Mr. Lawlor, seconded by Mr. Welch, to offer him 3% 7/1/95 and 4% 7/1/96. After discussion Mr. Lawlor amended his proposal to offer 3% 1/1/96 and 4% 7/1/96. Vote on the amended motion was 3 in favor, 1 opposed (RPJ).

At 11:10 pm Mr. Lynch came back to the meeting and Mr. Joyce presented him with the BOS offer:
1. 3 year contract 1/1/96 - 6/30/99;
2. sick and vacation leave buy-back OK, subject to confirmation with Town Accountant;
3. 5 more vacation days, effective 7/1/96;
4. First year's compensation - 3% 1/1/96 and 4% 7/1/96;

Mr. Lynch said he is very pleased with the overall package but would prefer to

have 3% 1/1/96, 2% 7/1/96 and 2% 1/1/97.

Motion by Mr. Lawlor to reconsider the vote on compensation, seconded by Ms. Gates, unan.
Motion by Mr. Lawlor, seconded by Ms. Gates, unan. to amend his original motion on compensation to: 3% 1/1/96, 2% 7/1/96 and 2% 1/1/97.

At 11:15 pm motion by Mr. Lawlor, seconded by Ms. Gates to adjourn. Roll Call vote was as follows: PVL-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Wednesday, January 10, 1996 at 7:30 p.m. Members present were Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present, as were Attorneys Jay Tehan and Pat Costello from Kopelman & Paige.

At 7:30 pm Vice Chairman Lawlor called the meeting to order noting that all members are present except Chairman Robert Joyce, who is away on business. Motion by Mr. Dalton, seconded by Ms. Gates to go into Executive Session to discuss pending litigation. Roll Call vote was as follows:
WFD-Aye; SJG-Aye; TJW-Aye and PVL-Aye.

Attorney Costello said we have until January 22 to file a response in the James Harrington case. He has reviewed the matter with John Giorgio and they think that Mr. Harrington has some weak arguments. They will file disqualitative motions on the covenant of good faith and open meeting law violation complaints.
We may not get a summary disposition on the breach of contract claim - he is looking for at least 3 months compensation to fill out the 12 month period. We may assert counterclaims at any time when found through discovery. Mr. Costello will need an affidavit from Mr. Lynch re past practice re appointed officials. Counterclaims have to be asserted before filing and we have solid ammo for counter claims. He got the sense from reading the minutes that it would be a peaceful termination. Mr. Harrington's suit is shaky, if not frivolous.

Mr. Costello said that he wants to talk with all involved in the Levasseur matter, especially Fred Mansfield. We can form a base for counterclaims but it is wise to do more digging internally in Town Hall. Mr. Costello said this could get nasty in the long run and the BOS has to have thick skins. There could be all sorts of exposure and he's fired the first shot. We can go to the Board of Bar Overseers, or could turn the matter over to the District Attorney, Attorney General or the Ethics Commission.

If we file a counterclaim under 21B, we can look for twice the economic recovery. Re the tax title redemption we owned that property and can seek damages and could say we're entitled to the fair market value.
The case will involve the integrity of Mr. Harrington. Mr. Lawlor asked in the absence of a counterclaim which attacks his integrity can he disclose this information. Mr. Costello said he might have a difficult time filing additional claims because we feel there was cause for termination. He may throw the statement made by the BOS back in our face - that the BOS found no intentional wrong doing.

Attorney Tehan, Chief Litigator, said that the complaint has 3 counts
1. pure breach of contract - he expected the contract to go one full year, but he drafted the agreement and it is always July 1st. We have firm footing but don't have the ammo in place for a motion for summary judgment.
2. breach of covenant of good faith and fair dealing - this is a common law claim that he wasn't paid for money that he was entitled to, and that was not true in this case. 3. open meeting law violation - there are 3 hurdles:

1. standing to bring claim - only 3 voters can challenge, not just one;
2. statute of limitations - 21 days; and
3.. failure to state claim on which relief can be granted.

There will be a partial motion to dismiss on 2 and 3; on the first claim, how agressive does the BOS want to be. Mr. Tehan explained what the Bar of Board Overseers could do, which would only be sanctions in the form of discipline. There would be no financial benefit to the Town.

Atty. Tehan said that a counterclaim is troubling - it is not clear that failure to re-appoint came out of the tax title case.

The BOS then discussed Mr. Harrington's role with the Sewer Commission, that there was discussion a year ago on Mr. Harrington's reappointment and conflict. Atty. Tehan said that Atty. Girogio has determined that only the BOS calls the shots on that. Mr. Welch asked when Mr. Harrington gives depositions how can we attack him while he is still representing the Town as legal counsel for the Sewer Commission.
Mr. Lawlor added that we didn't not reappoint him because of the Levasseur matter - that was the crowning blow. Mr. Lynch said there are no problems with the Sewer Commission - Mr. Giorgio says only the BOS has the right to engage counsel for the Sewer Commission.
Mr. Lawlor asked if we didn't reappoint him as Town Counsel, do we want him as sewer counsel - if we find 8 or 9 counts where we find evidence of fiduciary irresponsibility and engaging in conflict of interest.
Mr. Lawlor said it would be easier if the the Bar of Overseers took action, since most problem situations relate to the Planning Board. Mr. Lynch added that most of his activities are in land dealings and the Planning Board is not pleased with him.

Mr. Costello noted that Atty. Judy Cutler of Kopelman & Paige is speaking to the Planning Board tonight and will ask them to go over their records to find ay conflicts. The BOS then mentioned various other matters in which it was suspected that Mr. Harrington had a conflict.
Mr. Costello asked if one of Mr. Harrington's primary goals is to tear the Town apart, and he wants to nail down this LeVasseur matter - it looks like his spouse gained financial benefit through his services to the Town.

Atty. Tehan said there is a conflict in his mind as to how to approach the matter - if it is an ill-founded or frivolous suit then the discovery that we do may be limited if we don't file a counterclaim. The first order of business is to determine if we have a strong footing and good faith basis. Filing a 93A claim was discussed but not decided upon.

Mr. Costello asked what do you as a Board want to do, and Mr. Lawlor said we don't want them to feel constrained in vigorously defending us.
Mr. Costello discussed the posturing track, asking what if he has a chat with Attorney Phil Nyman. He said he could say to Mr. Nyman that you've filed a claim against us and we are considering a counterclaim against you and let's have a frank settlement

discussion.
Mr. Lawlor said they should satisfy themselves that Atty. Nyman is not in conflict.
Mr. Lynch said that we brought him into the Ferreira case when Atty. Harrington was in conflict because he had represented one of the parties, but that was '93-'94.
Mr. Costello said we must get everything we have in black and white if we want to file a counterclaim and it must be done within 12 days.
Mr. Lynch said it is his understanding that Mr. Harrington is playing the press and showing himself to be the victim. If he withdraws, does he look like the hero?
Mr. Welch asked if he does go away, is it another chip against the integrity of the Board, and Atty. Tehan said he has an out if he wants one.

The Board then briefly discussed the suit filed by Atty. Joseph Shanahan in the Apple Country Club matter. Atty. Costello said they want to look at the appraisal thoroughly and that they will recommend that the BOS get another appraisal before we go to court and that this is a straight eminent domain case.
Mr Costello said that there was an assignment to the choice action and Mr. Shanahan had the right to sue. Mr. Lynch told him that Mr. Shanahan used to represent another person - Jack McCarthy - and when he went to represent Mr. McCarthy in trying to purchase Apple, he decided to take it for himself. Mr. McCarthy will sue Mr. Shanahan for anything he gets.
Mr. Costello said he may recommend offering Mr. Shanahan more money but would certainly make no offer without authorization from the BOS. Atty. McLaughlin is getting a contingency fee and a retainer for expenses, and the longer the eminent domain case drags on the higher the interest.

Mr. Costello said he will call to get all the documents from Fred Mansfield tomorrow.
Mr. Lawlor told both attorneys that the Board would like to be actively involved.

At 8:25 pm motion by Mr. Dalton, seconded by Ms. Gates, to adjourn to Open Session. Roll Call vote was as follows: WFD-Aye; SJG-Aye; TJW-Aye and PVL-Aye.

For the Board of Selectmen, by
Judith E. Carter

Executive Session of the Board of Selectmen held Tuesday, January 16, 1996 at 9:40 p.m. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Motion by Mr. Lawlor, seconded by Mr. Dalton, to go into Executive Session to discuss pending litigation. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

Mr. Lawlor summed up the last Executive Session for Mr. Joyce, stating that we are taking a straight defensive posture and defined the allegations that Mr. Harrington made. He said that tactically we can try to give some jabs that strengthen our case. Mr. Lawlor referred to Bar Association ethics and the fact that Mr. Harrington is suing the Town while still representing our Sewer Commission. He said we have asked Atty. Pat Costello to meet with Mr. Harrington's attorney Phil Nyman and indicate to him that the lawsuit Mr. Harrington has brought has the potential of getting nasty and painful for him.

Ms. Gates said that we had talked about having the attorneys meet face to face and did all we could in good faith to end this. She asked what does Jim want - it's no apparent from his complaint. It's veiled and she thinks he wants to get at least 20 years in his pension plan. We can tell Mr. Nyman that his client wants something and if they do this the repercussions will be that we won't have someone representing the Town and also suing us. He's risking 20 years - we have the authority to get rid of him and when he cuts the tie there goes his 20 year pension.
Mr. Joyce said he has no problem with that scenario - he stays with Sewer and the lawsuit goes away. Mr. Lawlor said if we take away the Sewer Commission job he will sue for that, too. Mr. Lawlor said he told Phil Nyman that it's in Jim's lap, and Mr. Nyman said if you fire him from Sewer that's additional damages.

Ms. Gates said that when she attended a Sewer Comm. meeting after we had hired Kopelman & Paige as Town Counsel they still appointed Mr. Harrington and Mr. Lynch said that Mr. Emerson doesn't have the authority to award a contract to anyone.
Mr. Lawlor said there is apparent authority in the law - if Mr. Emerson appoints him and there is no challenge he has apparent authority. He suggested that Mr. Lynch send a memo with the opinion from Kopelman & Paige to all departments and Boards stating that there is no authority on any Board's or Dept. Head's part to appoint any counsel unless approved by the Town Manager and the Board of Selectmen. Mr. Lynch said he won't send their opinion but may send a memo next week. Some people will take any stand as confrontational and we have to understand there will be a fallout.
Mr. Joyce said that the BOS has to be solid behind Mr. Lynch and Mr. Welch said not behind just Mr. Lynch but behind the Charter and the law, that this is a legal issue, not personalities. Mr. Welch said we could tell Mr. Harrington to drop the lawsuit and he is guaranteed the position of Sewer counsel, and Mr. Lawlor said he could say he's dropping the suit for the good of the Town.
Mr. Lawlor said he wants Town Counsel to prepare a memo to the BOS discussing

the strategic benefit of an offer of judgment. If Mr. Harrington doesn't accept the offer of judgment he will have to pay our legal fees from the first day of the suit until judgment comes down. Mr. Lynch said that Kopelman & Paige won't meet with Mr. Nyman until we've filed our answer.

Ms. Gates said that as Sewer liaison Jack Emerson and Barry Balan had asked her to meet with them and she will bring up sewer rate relief funds under her reports.
Mr. Lynch said there are 3 issues re the sewer rate relief funds: how the money will be used; the manner by which communication took place (through the media) and who is responsible for setting the rates.

Mr. Lawlor said that Mr. Lynch should note in his memo re appointment of counsel that the School Committee is the exception under the statute.
He noted that the Sewer Commission appointed Mr. Harrington as their counsel and the BOS did not OK it, but we didn't stop it, either. He can't sue his client while representing the Town, and the Sewer Commission is considered part of the Town of Chelmsford. The Board of Bar Overseers doesn't respond to anonymous complaints.

Mr. Lynch will send each Board member a copy of his new Dept. of Revenue letter re sewer rates. Any tax relief would happen next year.

At 10:20 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows; PVL-Aye; WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, January 22, 1996 at 10:40 pm. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Mr. Lynch handed out the **draft of the response that Kopelman & Paige has filed in the James Harrington suit.** They have moved to dismiss two counts and are going into the discovery process next week. Other cases may become issues during the discovery process. Mr. Lynch said that they won't go to Attorney Phil Nyman until week after next.

Re **sewer rates,** Mr. Lynch said we're waiting for the Dept. of Revenue to get back to us. We may have the BOS adopt the policy of setting sewer rates with an advisory role. Mr. Emerson wanted the Sewer Commission to direct the DPW in setting the rates.

Re the matter of **Sewer Counsel,** Mr. Emerson said that nothing will stop them from appointing their own counsel but he has started backing off and saying let's talk, and said that he'll stop talking to the press.

At 10:55 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, March 11, 1996 to discuss collective bargaining and pending litigation. Members present were: Robert P. Joyce, Peter V. Lawlor, William F. Dalton, Susan J. Gates and Thomas J. Welch. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Dalton left the room while Mr. Lynch updated the Board on collective bargaining. Mr. Lynch said that with the Police Officers he is offering 2% for the first year and a split 2% the second year.
The Fire Dept. union is in mediation with the joint labor-managment committee. He said they want a larger increase and they are looking at the highest level with longevity which is about $40,000 and superior officers get $46,000.
Mr. Lynch said they are asking for 24 items, including escalating the top step of pay, rather than 5 steps in 8 years they want to go to 4 steps in 4 years; they want a compensation package like the Town Manager; bring back sick-tine buyback; per piece minimum manning; educational incentive, double the EMT's stipend; a stipend to use the defibrillator; increased personal days; unlimited time off for union business; increase clothing allowance, increase call-in pay and hold-over pay; 24 hour shifts, which would mean they work 8 days per month; and differential for nights and weekends, etc.
He said he is offering 2% 1/1/96; 2 and 2 next year and 2 1/2 percent in 1998. If the matter goes to fact finding and arbitration we have to take their decision and he will have to take the decision to Town Meeting for funding.

Mr. Dalton rejoined the meeting.

The Board discussed the letter they had received regarding the Housing Authority and misuse of funds. Mr. Joyce said it is not warranted - they are an autonomous Board. Mr. Lynch said that when he received the letter he sent a copy to Director David Hedison asking for additional information and he was in my office within an hour. They feel their letter was from their former accountant. He added that they are an elected body and autonomous in that they don't report to the Board of Selectmen. We have copies of their financial reports and he will call Town Counsel to see if we have any right to intercede. They are part of Town government but operate under State regulations. Mr. Lawlor said we do need to address it, and Mr. Joyce said that the press all got copies of the letter.

Mr. Lynch told the Board that the Harrington motion on disclosure was postponed.

At 11:05 pm motion by Mr. Lawlor, seconded by Mr. Dalton, to adjourn. Roll Call vote was as follows: PVL-Aye; WFD-Aye; SJG-Aye; TJW-Aye and RPJ-Aye.

For the Board of Selectmen, by

Judith E. Carter

Joint Executive Sessions of the Board of Selectmen and School Committee held Monday, April 8, 1996 at 7:10 p.m. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt, William F. Dalton and Thomas J. Welch from the BOS; Mary Frantz, Wendy Marcks, Judy Mallette, Angie Taranto and Tony Volpe of the School Committee. Town Moderator Dennis Mc Hugh and Town Manager Bernard Lynch were also present. The reason for the session was potential litigation.

Mr. Lawlor said that this is a meeting to discuss a letter received this evening re the Nashoba Valley Technical High School Committee appointment. The letter requests that the appointment be postponed for 2 weeks for the reason that the joint appointing committee has varied from past practice or actual statutory requirements by failing to have taken a vote prior to the expiration of the other term which ended on March 31st. It invites us to defer the vote for a period of 14 days and invites us to furnish unspecified documentation concerning what past practice has been. It does not suggest any means of curing the problem to the extend that they allege a deficit has occurred.

We all have to think of what we want to do and he personally sees of no reason to defer the vote - if there are blemishes with our process those blemishes exist whether we vote tonight or not.

Attorney McHugh said many times in the past we have not voted prior to March 31 and from a philosophical standpoint he doesn't see any damages. Ms. Frantz said that in 1990 it was done just after the Town election. Mr. Volpe referenced the recommendations made by Bill Logan and Barbara Ward in a printed document but said this was never voted as a policy but used a guideline.
Ms. Frantz commented that if the term expired the end of March do we indeed have a third rep at this time -it would be in our best interests to get someone into that position ASAP.
Mr. Lawlor said he agrees, that they are meeting tomorrow night so our best way is to proceed.

Mr. Marcks said that her letter was addressed to her as Chairman of the School Committee and will this make a difference when it comes to litigation. Ms. Gates told her that this is not an injunction but only a threat.

Mr. Volpe asked as a point of clarification if the term ends on March 31st is the person still an appointee until the new appointment is made. Mr. Lynch said they have alternates who would fill in. Mr. Volpe asked if this is the Moderator's understanding of this - that the appointee can't participate but the alternate can fill in? Mr. McHugh said that there are two possibilities and he has discussed them with Nashoba's counsel, who has no problem with continuing until the next appointment is made, or using the alternate.

Motion by Ms. Gates, seconded by Dr. Weisfeldt, that the Board of Selectmen move to proceed with the NVTHS vote tonight. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye.

Motion by Angie Taranto, seconded by Judy Mallette, that the School Committee vote to go ahead and make the appointment this evening. Roll Call vote was as follows: WM-Aye; TV-Aye; AT-Aye; JM-Aye and MF-Aye.

Mr. Lawlor recommended that both Boards make no comments characterizing what this letter is, that it is best not to. We will just indicate that it is a communication we received.

At 7:25 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn to Open Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye. School Committee members also all voted Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, April 22, 1996. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt, William F. Dalton and Thomas J. Welch. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Chairman Lawlor called the meeting to order at 9:40 pm and said we will be discussing potential litigation, real property and collective bargaining.

Mr. Lynch told the Board that Bob LaPorte has expressed an interest in selling their property at Worthern and Westford Streets to the Town. They have approval from the Planning Board for a 6-lot subdivision, 8 acres and l acre across Rte. 495. It is one of the last large open spaces left. The house was built in 1779, with a wing added in the 1850's and is in the Historic District. Ms. Gates said that the core building is what really should be saved but is in really sad shape. It would cost $150,000+ to put in plumbing and electricity plus buying the property.
Mr. Lawlor asked the cost, which is $650,000 but negotiable for the house and open space, and asked what could we do with the building? Mr. Lynch said we could just maintain the building, the LaPortes don't want it torn down.
Mr. Welch said it could make a nice park area.
Mr. Lawlor said it appears we all think it would be a nice piece of property to have, and what price would the Town pay? It is assessed for $490,000. Other ideas on what to do with the property were discussed.
Mr. Lawlor said we need from Mr. Lynch: 1. recommendations on what we will do with the property, and how to utilize the house; and 2. from an outside source find out how we negotiate its acquisition. All members agreed.

Re Central Square parking, we have been talking to Jack Handley and Bill Harvey re the space between their buildings. Mr. Handley is redoing the Mill House.

Mr. Lynch told the Board that A T & T is asking for a lease to place cellular dishes on this building, on top of the elevator structure. They would like a 20 year lease, paying $12,000 the first year and 3% more each year. We can't give more than a 10 year lease without going to Town Meeting. If they would go for 10 years we could advertise and put out a quick RFP.
Mr. Lawlor said to put something in the Beacon, and Mr. Lynch said that checking with the MMA Bulletin Board $1,000 a month is good - others are getting only $500 - $750.
Mr. Lynch added that they also want to put a 1,000 ft.tower over at Drum Hill. They will pay us and also let Police and Fire communications use the tower - possibly down by the Dog Pound would be a good place. John Giorgio thinks we would have to go to Town Meeting with this, and also get a variance from the Board of Appeals. They would be using Town-owned land and probably pay $12,000 for the tower. Mr. Dalton said that the fire trucks have problems with communications, unless they have repeaters.

Motion by Ms. Gates to authorize the Town Manager to pursue a 10 year or less contract, seconded by Dr. Weisfeldt. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye.

Mr. Lynch then brought up the Carye property, behind Scotty Hollow and the landfill. It is 40 acres, zoned industrial. They were interested in putting in a retirement community but the only access road is Ledge Road, off Dunstable. They want access over the landfill, which has been capped. They are now talking about some type of rental housing, which is a bigger problem, both politically and service wise. He has talked to them, and if we grant access we want them to deed the land along Rte. 3A to us, app. 16 acres in a floodplain area.
Mr. Lawlor said he wouldn't be in favor of anything but residential elderly and tell Mr. Carye there would be no support from the BOS except for that. 40 single homes could mean 60 children, and he can't do anything industrial.

Mr. Lynch then discussed the Sewer Commission issue - the article wasn't sent in to the Attorney General first re extending the term of the Sewer Commission beyond 2005. The Board can file special legislation to amend, or wait until the next Town Meeting and then put it on the 1997 ballot. Mr. Welch feels we ought to let the Sewer Commission know.
Mr. Lynch will talk with Mr. Emerson and then bring it up in Open Session.

Mr. Lynch told the Board that Fred Mansfield is getting an opinion from Bond Counsel as to whether the sewer $49 mil extension is putting us close to our debt limit. We can go up to 5% of our value and our value is $2 billion so we can have up to $400 mil. We can always raise taxes to cover it, and we should hear from Bond Counsel tomorrow. The good news is that we retire debt very quickly, within 5 or 10 years.

Mr. Dalton asked about changes at the Highway Yard at Richardson Road. Mr. Lynch said we want to put the mechanics bay in the new building, plus storage space and the office so we can get rid of the trailer. All drainage from the mechanics bay is tied into the tank, or directly into the sewers. Mr. Dalton said that the North Chelmsford Water District is going to fight it and Mr. Lynch said that they put in 3 wells after we put the Highway yard there.

Mr. Dalton then left the meeting due to a conflict of interest.

Mr. Lynch updated the BOS on the fire contract, saying that we are now in mediation and have a meeting Wednesday with joint labor/management. The issues are compensation levels, 24 hour shifts. Arbitrators have been known to give 24 hour shifts for 1 or 2 years. We are offering 2% and split 2 next year. He is now saying January lst, not retroactive.
Mr. Welch asked about their list of 24 wants - have they backed away, and Mr. Lynch said yes, on some. We told them we want to do away with shift bidding and tell them when to go on vacation. They want to go to per piece minimum safety manning, with 3 people on every truck. We'd have to add 20 firefighters to do that.
Mr. Lynch commented that we could drive the number of calls down tremendously if we stopped medical calls, and he also wants to put in the language that any new firefighter has to be an EMT. He noted that Harvard Community Health Plan doesn't want police and fire responding to their office when they call 911

- only an ambulance. Mr. Lynch said he would not stop fire medical calls until all police are EMT trained.

Mr. Lynch said the **Police union is slower and not anxious to settle. They want a big increase** - 2, 4 and 6%. The numbers are much larger than we want to talk. They are talking about eliminating longevity but putting it into the base. They filed with joint Labor Management committee but withdrew, and the matter is now stalled. They're filing a lot more grievances - there are now 2 re the assignment of personnel. **There appear to be 3 groups in the department** - the guys who have been there forever, the young guys who want more money and the Quinn bill, and the middle group that is demanding and wants to run the department. They think Chief Caron is too autocratic and it wouldn't surprise him if they took a vote of no confidence.

Mr. Lynch briefly talked about **public safety officers and a combined police and fire station.**

Ms. Gates asked what happened at the **Jim Harrington motion hearing** and Mr. Lynch said it was continued until the first of May at the request of Attorney Nyman. **Mr. Lawlor said he wants the Board to have a strategy regarding the Jim Harrington and Joe Shanahan cases.** He wants to get them off our plates and is now less adverse to settling than he was. **Mr. Welch questioned legal fees** and Mr. Lynch said they are less than they were a year ago with Mr. Harrington.

At 11:00 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn. Roll Call vote was as follows: SJG-Aye; SGW-Aye; TJW-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Thursday, May 2, 1996 at the Senior Center at 6:30 pm. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt, William F. Dalton and Thomas J. Welch. Town Manager Bernard Lynch, BOS Adm. Asst. Judith Carter and Town Counsel John Giorgio were also present.

Chairman Lawlor called the meeting to order at 6:40 pm and said that he has the Committee/BOS liaison list for the upcoming year and will be releasing it to the press tonight. The only real change is in the LRTA representative.

At 6:40 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to go into Executive Session to discuss pending litigation. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye.

Mr. Lawlor asked Attorney Giorgio to discuss the cases that loom the largest on his litigation status report dated April 29, 1996. Mr. Giorgio said that the list is mostly land use cases that are being appealed and some that the insurance companies are handling.

Case #4 - a complaint for land damages arising out of the Town's taking by eminent domain of the Apple Country Club. The Board signed the order of taking in July, 1995. We thought the Town could make a pro tanto payment for the rollback taxes but this was not enough to settle the claim. Pat Costello has served Discovery requests on the plaintiff. George McLaughlin is the plaintiff's attorney and they are in the process of having an appraisal done. We're holding off on insisting on interrogatories, and both counsels have agreed to hold off until the appraisal is complete.
The case could come to trial within a year to 18 months. The town should always re-evaluate cases, and asked if the BOS is confident with the appraisal.
Mr. Lawlor said that pre-judgment interest is continuing to run at 10 - 12% and it is prudent for us to talk about strategy. What tactic should we take - do we want to offer money to settle, which could make them start to spend money. The plaintiff is probably a shell corporation that has no assets.
Mr. Giorgio said we don't know what position they will take re the value of the property -let's see what ballpark they're in.
Dr. Weisfeldt asked is the issue is going to be rollback taxes and Mr. Giorgio said they'll be looking for more than that. Ms. Gates noted that this case was taken on contingency.
Mr. Lawlor said our goal is to pay out as little as possible and Mr. Giorgio recommended exploring settlement since we have no problem defending the appraisal. The one issue is what was the best use of that property on the date of taking and what is the value? There is always a risk in these cases. Mr. Lynch said we think we have a good appraisal but Mr. Shanahan will say it is worth more.
Mr. Lawlor asked does the Board want to authorize Mr. Giorgio to solicit form them their demand?
Ms. Gates said we should tell them they have to give us a demand or make them answer the interrogatories. Rollback taxes is the issue - would Atty. Shanahan walk away from that kind on money - $220,000? Mr. Lynch said he thinks he would settle

for a lot less.

Mr. Lawlor asked Mr. Giorgio what is his experience with Alternate Dispute Resolution (ADR). Mr. Giorgio said they are really simple cases, but sometimes large numbers.

Case #9 - the Board then discussed the Harrington matter with Mr. Giorgio, who said it is perplexing. The **case is former Town Counsel Harrington filing action against the Town for breach of contract and we filed a counter claim for violation of state ethics and breach of contract.** Mr. Harrington failed to file answers to the counterclaim and we received an allowance of our motion to default. If he has a good excuse for not answering the counterclaim the court may dismiss the default. He has also failed to answer the interrogatories. We have asked for dismissal of breach of contract and violation of the open meeting law. The case has been postponed once due to weather and the second time by their counsel. When he files a counterclaim we will say that he was explicitly not re-appointed on June 30, 1995.
Mr. Giorgio commented that the court seems to be fast- tracking this and Mr. Lynch said he thinks the interrogatories scared them.

Case #24 - Town vs. Natalie Sergi for violation of zoning by-laws and Board of Health regulations. The Town obtained a contempt judgment of $40,000 but the defendant has filed for bankruptcy.

Mr. Giorgio said that Joel Bard is handling the land use cases for the Town.

Mr. Lynch then told the Board that **Tony's Garage, Michael Ferreira, hasn't paid taxes for the past 5 - 6 years.** The Town took possession over 30 days ago. There had been an agreed payment plan with the Treasurer which was not followed. Finance Director Fred Mansfield gave him one more chance to pay the $33,000 and he offered $19,000 as partial payment. The Town's collection Attorney Coppola advised him not to take the partial payment. A week later they gave Mr. Mansfield $29,000 and said they would have the $4,000 by the end of the week. There is a period of redemption of a year.
Motion by Ms. Gates, seconded by Dr. Weisfeldt, to **authorize the Town Manager to allow Mr. Ferreira to redeem the property for taxes due in full plus accrued interest and the cost of collection by May 20th.** Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye.

Mr. Lynch then said that there is a dispute with the Sewer Commission that may be potential litigation. The issue is a memorandum of agreement they signed with the City of Lowell. Part of the agreement had to do with waste surcharges and some things should have never been agreed to, which did not appear in earlier drafts of the agreement. Jim Pearson is concerned with this. In October, 1994 the Sewer Commission amended the sewer use regulations granting to the City of Lowell the ability to enforce waste regulations. The question is who promulgates regulations and determines fees - the Charter very clearly says the Town Manager. The Commission says they will go to court over this. Mr. Giorgio said that EPA Regulations gives Lowell the right to enforce in Chelmsford.

Mr. Lynch said he wants to sit down with Jim Pearson and John Giorgio.
Mr. Lawlor asked if we need to do something so the situation won't worsen, and how do we know they won't compromise our position again. Mr. Lynch said he doesn't favor them changing the rates or regulations.
Mr. Lawlor said the goal is to maintain the status quo until the situation is resolved. They're talking tie-ins and fees with Westford and Tyngsboro.
Mr. Giorgio questioned the agreement with Lowell - was it authorized by Town Meeting? Mr. Lynch said that the original agreement was signed in 1985 and the amendment in October, 1994. He and Mr. Pearson participated in some meetings with Lowell and thought it was a good deal but didn't know that changes had been made in the agreement.
Mr. Giorgio said that there are very strict requirements for inter-municipal agreements.
Mr. Lawlor told Mr. Lynch to work with Mr. Giorgio and report back to the Board within 2- 3 weeks.

At 7:25 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to go out of Executive Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, May 20, 1996 at 9:15 pm. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt, William F. Dalton and Thomas J. Welch. Due to illness Selectman Welch participated in the meeting via speaker phone. Town Manager Bernard Lynch and Administrative Assistant Judith Carter.
The purpose of the meeting was to discuss collective bargaining, litigation and the purchase of real property.

Mr. Lynch reported that the ABCC has not issued Sterling Golf Management Company its All Alcoholic license yet and are treating it as a new license with conditions. He has told Secretary Connelly that the Town took over the golf course and is leasing it to Sterling. The ABCC says they will issue the license and if nothing comes from the Department of Revenue within 60 days they will release the conditions. We have received correspondence from Park Road residents, which he has answered, and overall everyone seems pleased with the golf course.

Mr. Lynch said that A T & T has reached an agreement to enter into a 5-year lease agreement for $1,000 per month the first year and a yearly 5% increase thereafter. If we sign by the end of May they will give us another $1,000. Ms. Gates asked why are they so anxious and Mr. Lynch said that this isn't cellular but a digital service called PCS. Mr. Lawlor said this is a non-exclusive grant - we can take a better deal if it comes along. Mr. Lynch said the matter has been sent to Kopelman & Paige for review.
Mr. Welch asked what about the Dog Pound and Mr. Lynch said he has suggested it but it needs a 100' pole and he now has another deal on the Dog Pound which will have to go to the Board of Appeals.

Re the Worthen Street property, Mr. Lynch told the Board that the LaPortes have a buyer for the house and the front parcel. They want us to buy the remaining land which is only 4 lots in the middle of nowhere. The buyer is going to invest $300,000 for the house and property. Mr. Lynch told him maybe the Town would buy that lot but he wants to keep his driveway. We're having the property appraised and hope to have the appraisal and plans for the next meeting. Maybe we could arrange with him so he could keep his driveway. Mr. Lawlor said he could give us a restrictive covenant in perpetuity for us to be able to pass and re-pass.

Mr. Lynch has been approached by the Chelmsford Youth Soccer Association re investing money in some of our fields. He feels they are a good organization and they are looking at the Highlands School, behind St. John's Church. They use the school playground for a soccer field and want to put in a sprinkler system and re-seed it. They are also interested in South Row School but some people use that field for pick-up games. If soccer took it over it would eliminate the infield. They are also looking at Strawberry Hill Field off School Street. Their requirements are that they get the first shot at all scheduling of fields year-round and they could decide to "rest" a field, with no use for a period of time.
We would have to put restrictions on them - they would have to allow other things to take place there. We don't want them to be like Little League and not let anyone else use their fields.

The Board supports his continuing to talk to them, and Mr. Welch commented that there are no pick-up games any more.
Mr. Lynch said that Soccer's concern is that if they invest $30,000 in fields they don't want to be kicked off.

Mr. Lynch told the Board that the James Harrington case has been continued to September 25 and he will find out where we stand on our motions to default.

Chairman Lawlor said he will be calling on each liaison as part of the meeting, for BOS members to report on their liaison groups.

Mr. Lawlor said he wants to sign the Town Manager's contract when the Board is all together but we need to do it by July 1st.

Mr. Lynch handed out a draft BOS meeting schedule for the rest of the year.

Mr. Dalton left the meeting at 9:45 pm.

Mr. Lynch discussed Fire negotiations with the Board, saying that they had a Mediator at the last session. He proposed 2-2-2 1/2% and would create more steps, but it would still take 8 years to get to the top. We are asking for changes in sick and vacation time language.
They are ready to go to the next step - either factfinding or bringing in labor/management to work with a neutral Arbitrator. Our Mediator said that an arbitrator would give Mr. Lynch his language, and the Union some of their language, and make compensation comparable to the rest of the Town. We can't oppose an Arbitrator's findings.

On the Police negotiations Mr. Lynch said there has been a change in leadership and mediation is set up for June 6th.
Mr. Welch commented that it sounds like we're closer than we were a few months ago.

Mr. Dalton returned to the meeting room at 9:55 pm.

Mr. Lynch told the Board that new legislation has been passed stating that employees with military service can buy back into the retirement system at 10% of their base pay for each year they were in the service.

At 10:00 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye; TJW-Aye and PVL-Aye.

For the Board of Selectmen, by
Judith E. Carter

Executive Session of the Board of Selectmen held Monday, July 15, 1996 at 9:35 pm. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Thomas J. Welch was absent due to illness. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Lynch discussed the Worthen Street property with the Board, saying that the price for the house is $205,000 and the appraised price for the lots as is and what they could bring on the market is $370,000 as is and $500,000 if construction ready. The whole property is worth $575,000.
Ms. Gates said that Bob LaPorte said they would keep the house and want $400,000 for the lots. They also own another 2 acres of land by the Lime Quarry which they would include for that price. People are starting to show interest in these lots - it's really visible land. The 6 lots including the house lot are 282,000 sq. ft. and the other 5 lots are 5 acres on 216,000 sq. ft.
Mr. Lynch said it would be great to get the land and hold on to it. We would have to bond $370,000 for 5 years, and any house built there would bring in app. $5,000 per year but the cost to the Town per house would be app. $7500 per year.
Mr. Lawlor suggested we forget the house. Mr. Lynch said if we could get the 5 lots for $300,000 that's a good deal but a more whimsical priority. Mr. Lawlor said the best use is as it is now - an unmowed field. Ms. Gates said we owe the LaPortes an answer and Board members agreed that we can't do it, much as we'd like to.

Mr. Dalton left the room for the next discussion.

Mr. Lynch talked with the Board about Police and Fire negotiations. He has a tentative deal with the Patrolmen, whose contract expired a year ago. An October deal fell through and was again voted down. Assisted by the Joint Labor/Management Committee we offered 2% the first year, with a 2% equity adjustment - it costs 2% but the base goes up 4%. We offered 2 - 2 split for the second and third years. He said we're lagging behind with patrolmen as far as base pay and education incentives. They didn't buy it. He will go to the JLMC and say that we're done and go to factfinding. An arbitrator will review both cases and include a negotiable settlement. The factfinder won't hear about the last offer from us. Three years ago a factfinder left some ends dangling which didn't make a lot of sense. We can make a good cause for why we're offering what we are, and there are no management rights at risk.

The Fire Dept. is at a similar point - they say they know what the police were offered and want the same. They also want per piece manning - 3 men per piece, which means we would have to add 20 firefighters. They want a percentage of their pay for being an EMT - 5%, where it is now 2 1/2%.
Mr. Lynch said he thinks they ill have a tougher time with the Arbitrator.
Mr. Lawlor said he dos not support augmenting the Fire Dept. personnel or paying 5% to EMT's. Mr. Lynch said we also want to limit the number of courses that they can take and put on the table that all future firefighters must be EMT's when they are appointed to the department. Ms. Gates asked about re-certification and Mr. Lynch said every 2 years. Mr. Lawlor added that the next time we negotiate with Trinity Ambulance that we have them provide a portion of Town personnel training.

Mr. Dalton rejoined the meeting.

Mr. Lawlor said that re the Town Manager's contract we have voted an amendment to his compensation package, which has been incorporated into the present contract that we are signing tonight. Dr. Weisfeldt asked questioned the sick and vacation buy-back time and Mr. Lawlor explained it to him, that we are saving the Town money by letting him buy-back over the 4-year period.
Mr. Lawlor, Ms. Gates and Dr. Weisfeldt then signed the Town Manager's contract. Mr. Dalton abstained because Fire Department negotiations have not concluded yet.

At 10:00 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn to Open Meeting. Roll Call vote was as follows:
SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by
Judith E. Carter

Executive Session of the Board of Selectmen held Monday, August 19, 1996 at 10:00 p.m. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Town Manager Bernard Lynch and Administrative Assistant Judith Carter were also present.

Mr. Lynch told the Board that the **Firefighters and Patrol Officers are going to arbitration.**
He has a one-year **deal with the Superior Officers** - a 2%-2% split. There is a major concession in detail language, which is a good deal for the Town.

On the **James Harrington matter** Mr. Lynch said he has defaulted twice and **fined $1,000 to be paid to the Town.** A hearing is scheduled on September 25 on our motion to dismiss. Town Counsel John Giorgio is impressed with this fine.

The **Planning Board** has had problems with **Arrowhead Circle, off Elm Street.** It was the first cluster development in Town and the project was approved and sold to Caraco Brothers. Mr. Harrington was trying to save a lot of money and represented both the Town and Caraco Brothers. The Planning Board is trying to force Caraco Brothers to finish the project, and they say they will sue us or give us $4,000 to finish the road. The Planning Board never got the Conservation land with no restrictions. Doug Hausler is representing the Caraco Brothers and will have to sit down with Judith Cutler, the Kopelman & Paige attorney handling this matter and then the Planning Board. He will be in touch with Kopelman & Paige later this week.

At 10:20 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to go out of Executive Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Wednesday, September 11, 1996 at 7:30 p.m. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Town Manager Bernard Lynch was also present, as were John Giorgio and Judith Cutler from Town Counsel firm of Kopelman & Paige.

Motion by Ms. Gates, seconded by Dr. Weisfeldt, to go into Executive Session to discuss litigation and real property. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

A review of current legal cases involving the Town took place, with specific discussions of the Harrington case, Arrowhead bond case and Country Club Estate case.

Mr. Lynch presented the Board with information regarding the Boudreau tax foreclosure and asked the Board for a vote to allow redemption of the property based upon full payment of the taxes due. Motion by Ms. Gates, seconded by Dr. Weisfeldt, to allow the redemption of the Boudreau property based upon full payment of taxes due. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

At 9:10 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn to public Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by

Executive Session of the Board of Selectmen held Monday, September 23, 1996 at 10:00 p.m. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Bernard Lynch, Town Manager and Administrative Assistant Judith Carter were also present.

Motion by Ms. Gates, seconded by Dr. Weisfeldt, to go into Executive Session to discuss litigation, real property and collective bargaining. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

Re litigation, Mr. Lynch said that on the Harrington case Kopelman & Paige are meeting with Attorney Phil Nyman this week. Mr. Lynch said he is meeting with Attorney Doug Hausler re the Arrowhead matter and they seem agreeable to $4,000. He will be discussing the settlement agreement with Attorney Judith Cutler.

On the issue of real property, the Lighthouse School property has an access road off Wellman Avenue. They have gone to the Board of Appeals re landscaping requirements and will have to go back for side lot requirements. The Planning Board proposal calls for an access road coming across to Southwell Field. Williamsburg wanted another access road and the developer Tom Gonsalves gave $15,000 to the Town and put in a water line. When we built the Southwell Field Park we dedicated it for park purposes, and can't do anything else with the property without special legislation. All 33 acres are floodplain except where the Lighthouse School building will go. Mr. Lynch said he wants to work with Lighthouse to get that back lot, which is 20 - 25 acres. We could give them access over it it would be access to Town public land, not dedicated land. The Board agreed that we need that land.
Motion by Ms. Gates, seconded by Dr. Weisfeldt, to support negotiating for the acquisition of Lot 1-A. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

Mr. Dalton left the room for the next discussion.

Mr. Lynch reported that the Superior Officers union has endorsed the contract - it's a one year deal, with some language changes and they are to provide a list of union members, and 2% the lst 6 months and 2% the 2nd 6 months. He said that this is helpful in terms of the patrolmen, with the 2-2 split. A one year contract will bring the Superior Officers back into line with the patrolmen if they have a 2 year contract. The Town will pay 50% of a health club membership up to $150. Now all details with 3 or more patrolmen require supervision - the new language would require a supervisor for 5 or more road details.
Motion by Ms. Gates, seconded by Dr. Weisfeldt, to approve the bargaining contract with the Superior Officers. Vote was 3 in favor, Mr. Dalton not present or voting.

Mr. Dalton rejoined the meeting. At 10:40 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn the meeting. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, October 28, 1996 at 8:10 pm to discuss pending litigation and acquisition of real property. Members present were: Peter V. Lawlor, Susan J. Gates and Stuart G. Weisfeldt. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Strategy re the James Harrington case was discussed. Mr. Lawlor said they are very close to settlement and he would like the BOS to make a statement when it is resolved. Mr. Lynch advised letting the press asked if there is any money involved, not to include it is the statement. Mr. Lynch advised that they can't require a confidentiality agreement, and Mr. Lawlor said he will draft the statement.

On the Arrowhead Estates matter Mr. Lynch said this is supposed to be resolved as well, but the Planning Board would sign off on this.

Mr. Lynch reported that he has met with Atty. Joe Shanahan and Mike Pappafagos re the land behind the Lighthouse School Their financing is such that they don't want to have new appraisals done but we were more or less given Mike Pappafagos' word that they'll work with us. What they're asking from us is that we indicate to them that in concept we agree with access into Southwell Field.
Mr. Lawlor said that once the financing is in place there is little incentive for a lender to let land go for nothing, and he is not comfortable with it. Once the permitting and financing is obtained the entire property is part of the collateral.

Mr. Lynch said they believe they could use the access road through Tom Gonsalves' easement over the Dalmeyer property. He added that they are dealing with Andover Bank and don't have adequate equity. They are trying to put in 10% but don't meet underwriting requirements. They can meet their obligation by increasing their rates, but the state won't agree to a rate increase until the loan is guaranteed. They have indicated that once they're in there they may re-negotiate.

Mr. Lawlor said one thing we could be doing is to have an appraisal done of the property, assuming that 98% of the property is unusable and hope the appraisal goes along with that. We could maybe go to the lender to show what we have in mind or if in the future the BOS decides to take the property we need that appraisal. Mr. Lynch said an appraisal we have done now would be obsolete in a year or two, and the land is mostly floodplain.

Ms. Gates asked why give them access to Town land if it is not a bargaining issue to us. We don't have a duty as a Town to do this, and why should we. Mr. Lawlor answered to preclude us from looking petty. Mr. Lynch added that if we charged them it would only ruffle their feathers and preclude further bargaining.

Mr. Lawlor talked about a 3rd prospect - acquiring a non-exclusive easement. They'd have the exclusive right to use it during school time, we'd light it and maintain it, and we could use it when school is not in session. Mr. Lynch said he is still concerned about their financing, and Ms. Gates said this is a good deal for them - we'd upgrade their property. Mr. Lynch said that we would have to go to Spring Town Meeting to get approval for an easement.

Mr. Lynch then said that the Soccer Association has indicated that the State Association will spend money to make this a regional field. He said that long-term he wants this property for the Town, but it is not essential to get it right here and now. They hold the cards on this now. Mr. Lawlor commented that they may make some use of this property that may make it less attractive to us. If they improve it makes us even meaner. Mr. Lynch asked Mr. Lawlor why don't they sit down with Mr. Pappafagos or Atty. Shanahan, and Mr. Lawlor said he would like to show their lender that this is feasible. Mr. Lynch said again that they're concerned about their financing.

Mr. Lynch told the Board that the meeting on Nov. 4 is the Classification hearing, filling the Planning Board vacancy and the Freeman Lake Water level. It is up to the BOS to set the water level, and it would cost $100,000 to do what the residents want, and only $40,000 to do Jim Pearson's plan.

At 8:55 pm motion by SJG, seconded by SWG, to go out of Executive Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, November 4, 1996 at 8:45 pm to discuss acquisition of real property and pending litigation. Members present were: Peter V, Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Town Manager Bernard Lynch and Adm. Asst. Judith Carter were also present.

Mr. Lawlor discussed the Lighthouse School property at Williamsburg, noting that they have a 33 acre parcel and they will use only the front portion of it. Mr. Lynch has made an informal approach to Lighthouse, that we would love to have some additional acreage but the response has been that they would be willing to talk to us once their financing has been completed. They're concerned that if the underlying collateral for their loan has lessened that their financing could be in danger. The land is in a flood plain but the Board feels we would like to have it.

Mr. Lawlor said there are 3 factual options: 1. eminent domain; 2. approach their lender with their permission; and 3. wait until their financing is in place and see what happens. They are looking to us for an access right through Town property since they need a second means of ingress and egress.

Mr. Lynch said when he heard of the property sale he went to Tom Gonsalves and he's exercising his right to sell to Lighthouse School and is no longer interested in giving the land to the Town. He met with Mike Pappafagos and they're nervous about their financing. He talked with Atty. Joe Shanahan about the access way and they'll talk to us after they have their financing. Mr. Lawlor said their permitting depends upon a second access and if we don't give access to them they will go to Dalmeyer and get access. Mr. Dalton said let's give them the ingress and once they have the financing we'll approach them. Mr. Lawlor said there are risks inherent with waiting - that it could be more expensive, the bank may not consent to it, and if we take it by eminent domain it could undermine their financing. Mr. Lynch said they haven't indicated to him that they are not trustworthy.

Mr. Lawlor said the bank could maintain a land damages claim against us if we don't pay enough. Mr. Lynch stated that Mr. Gonsalves said he had talked with some Planning Board members who said the Town wasn't interested.
Mr. Lynch recommended telling them that we'll work with them to give an easement for ingress through our property and start negotiations with them for a permanent easement. They can't occupy the building until they get an ingress. They have permits to proceed with construction but not to occupy the building until they have a second ingress. Dr. Weisfeldt said let's wait and trust them.

Mr. Lawlor commented that the two holds we have on them are: 1. the access way, and 2. remaining term of occupancy of Center School. Instead of an easement we could give them a license subject to annual review. He said that a license is more temporary, and we could grant one for 3 years without Town Meeting action. Mr. Lynch said he could draft a very vague letter that we're interested in looking towards a license grant. Mr. Lawlor stated that a license is for a limited period of time and an easement is in perpetuity. We could say to them that we'll give you this right but ask you now not to do any developing on any other part of the land.

Mr. Lynch said that a Soccer Assoc. member told him that the State Soccer Association could by the land and put in a field for Chelmsford soccer. Motion by Ms. Gates, seconded by Dr. Weisfeldt, to authorize the Town Manager to continue negotiations including allowing him to offer a license, not an easement. Mr. Lawlor added to the motion that we will defer any consideration of the taking of Lighthouse School property by eminent domain. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

Mr. Lynch said that the soccer association is having problems with the South Row School but would like to pursue the use of the soccer field at the old Highlands School. They want to re-develop the site - reseed and irrigate. The Town won't give up the rights to that field but won't schedule games when they are using or maintaining it. If we enter into an agreement with them we need to do it in Open Session. Mr. Lawlor said he would like to see a written proposal from them.

Mr. Lynch said the third issue is that an elderly woman with a disabled child is living in a rented home in Town and the owner owes us $13,000+ in back taxes. He will make partial payments and will not evict the tenants. The Board will vote on this in Open Session on November 18th.

The fourth issue is the Golf Course. They are almost through their first year and it has been very productive. They can't do much with the course without an irrigation system. A portion of the Capital Planning Budget can be used for golf course equipment, and we could buy irrigation equipment for $50,000 and they could install it. We could make this part of their 3 year capital improvement program - $70,000. We'd be foregoing any more improvements to the tee areas and there is a question of rock removal - there are large rocks there with peat underneath. They need to strip it off and fill it. Mr. Lynch drew a diagram of the course and explained different plans to change various holes. He has asked them for a 5-year capital plan, or we could have them contribute a portion of their $50,000 each year.

Mr. Lawlor asked the Chelmsford Country Club to come in to a December meeting for a year end report and discussion of future plans.

At 9:40 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to go out of Executive Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, November 18, 1996 at 9:40 p.m. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Town Manager Bernard F. Lynch and Admin. Asst. Judith Carter were also present. The purpose of the Session was to discuss pending litigation.

Mr. Lynch told the BOS that the Arrowhead Circle matter has been resolved and the agreement looks OK to Atty. Doug Hausler.

The James Harrington matter will soon be over.

Mr. Lawlor asked what's happened with Attorney Shanahan and the Chelmsford Country Club. Mr. Lynch said nothing, and Mr. Lawlor said that assuming we are required to pay anything interest will accrue at a rate of 12% from the time the complaint was filed. The case doesn't get any better by waiting -do we want to get aggressive? Mr. Dalton said let's force Mr. Shanahan to spend some money, and Mr. Lawlor added that if he has to spend some money he might dispose of the complaint. Mr. Lynch said he will get on the phone tomorrow with Jay Teehan and plan some strategy.

At 9:50 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to adjourn. Roll Call vote was follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by

Judith E. Carter

Executive Session of the Board of Selectmen held Monday, December 16, 1996 at 10:05 p.m. Members present were: Peter V. Lawlor, Susan J. Gates, Stuart G. Weisfeldt and William F. Dalton. Town Manager Bernard Lynch, Adm. Asst. Judith Carter and Police Chief Armand Caron were also present.

Chief Caron told the Board that he is here about an individual employed by the Police Dept. He was laid off in 1991-92 and went to North Reading where he had some problems and was terminated for harassing several young women. The Town has appealed the Court's decision. Under Civil Service law when someone has been laid off we have to notify them of any openings for the next 10 years.
We took him back and placed him on administrative leave, based on the charges in North Reading and our charge of date rape. He's planning to leave North Reading and come back here. It is not in the best interests of the Town or the Department to do so. We entered into negotiations with him and we have offered him a settlement of $18,000. He would leave and give up his position in the department and the Town of Chelmsford permanently. It is not in his best interests to let this out - the claims are basically substantiated

Chief Caron said it would cost us at least $12,000 to hire an attorney and he was a marginal employee at best, with the charges of harassment and date rape. If we fought it we'd lose eventually, and if we go past January 8th he can sue us for back pay. It would preserve the image of the department by not having him here, and the men don't want him.
Motion by Ms. Gates, seconded by Dr. Weisfeldt, to pay $18,000 to settle the claim with Mr. Villare. Roll call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.
Chief Caron then left the meeting.

Mr. Lynch said that on the James Harrington settlement, he will dismiss the claim if the BOS will dismiss their counter
claim. He said that even with the BOS release we could still go ahead with the conflict of interest issue.
Motion by Ms. Gates, seconded by Dr. Weisfeldt, to approve the settlement with Mr. Harrington. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

At 10:25 pm motion by Ms. Gates, seconded by Dr. Weisfeldt, to go out of Executive Session. Roll Call vote was as follows: SJG-Aye; SGW-Aye; WFD-Aye and PVL-Aye.

For the Board of Selectmen, by
Judith E Carter

WILSON JONES

VIRGIN VINYL

RECORD REPORTING ESSENTIALS

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